

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL : MDL No. 2804
PRESCRIPTION OPIATE :
LITIGATION : Case No. 17-md-2804
:
APPLIES TO ALL CASES : Judge Dan Aaron Polster
:
:

HIGHLY CONFIDENTIAL

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - - -

DECEMBER 13, 2018

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VIDEOTAPED DEPOSITION OF HBC SERVICE COMPANY'S

DESIGNATED 30(B)(6) REPRESENTATIVE,

JAMES TSIPAKIS,

taken pursuant to notice, was held at Marcus & Shapira,
One Oxford Center, 35th Floor, Pittsburgh, Pennsylvania
15219, by and before Ann Medis, Registered Professional
Reporter and Notary Public in and for the Commonwealth
of Pennsylvania, on Thursday, December 13, 2018,
commencing at 9:09 a.m.

- - - -

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P R O C E E D I N G S

- - - -

THE VIDEOGRAPHER: We are now on the record. My name is Chris Ratano. Today's date is December 13, 2018, and the time is approximately 9:09 a.m.

This video deposition is being held in Pittsburgh, PA at Marcus & Shapira, LLP, One Oxford Centre, 35th Floor, in the matter of National Prescription Opioid Litigation, MDL No. 2804, Case No. 17-md-2804.

The deponent today is James Tsipakis. All counsel will be noted upon the stenographic record.

The court reporter today, Ann Medis, will please swear in the witness.

JAMES TSIPAKIS,

having been first duly sworn, was examined

and testified as follows:

THE VIDEOGRAPHER: You May proceed.

MR. GADDY: Can we have all counsel who is present identify themselves.

This is Jeff Gaddy for plaintiffs.

MR. ROTTINGHAUS: Tom Rottinghaus for plaintiffs.

1 MR. SIDLINGER: Along with Thomas
2 Sidlinger for plaintiffs.

3 MS. KVESELIS: Emily Kveselis from
4 Covington for McKesson.

5 MS. MCNAMARA: Colleen McNamara,
6 Williams & Connolly, for Cardinal Health.

7 MR. HIMMEL: Brian Himmel from Reed
8 Smith for AmerisourceBergen Drug Corporation.

9 MR. KOBRIN: Josh Kobrin with Marcus &
10 Shapira for HBC Services Company.

11 MR. BARNES: Robert Barnes, Marcus &
12 Shapira, HBC Service Company.

13 EXAMINATION

14 BY MR. GADDY:

15 Q. Good morning. State your name, please.

16 A. James Tsipakis.

17 Q. And, Mr. Tsipakis, who do you work for?

18 A. Giant Eagle.

19 Q. And what's your position with Giant
20 Eagle?

21 A. Head of pharmacy for Giant Eagle.

22 Q. Okay. Do you understand that you're
23 here to testify today on behalf of HBC?

24 A. I do.

25 Q. And do you understand that you've been

1 designated by HBC as a 30(b)(6) witness to testify
2 on behalf of the company HBC?

3 A. I do.

4 Q. So you understand the answers that you
5 give today will not be Jim Tsipakis's answers, but
6 they will be HBC's answers?

7 A. I do.

8 Q. Now, you mentioned you're employed by
9 Giant Eagle; correct?

10 A. Yes.

11 Q. Explain to me your understanding of the
12 relationship between Giant Eagle and HBC.

13 A. Giant Eagle, as a company, owns HBC.

14 Q. So HBC is a division of Giant Eagle?

15 A. I'm not sure of the legal entities. I
16 know Giant Eagle, as a company, owns HBC.

17 Q. So the -- HBC and Giant Eagle are not
18 competitors.

19 A. Giant Eagle owns HBC. It's -- it's one
20 of our company assets.

21 Q. How long has Giant Eagle owned HBC?

22 A. I'm not exactly sure.

23 Q. Is HBC still in business?

24 A. HBC is still operating, yes.

25 Q. Does HBC still distribute products to

1 Giant Eagle's pharmacies -- or, excuse me, Giant
2 Eagle stores?

3 A. Yes.

4 Q. Does HBC still distribute any narcotics
5 to Giant Eagle stores?

6 A. It does not.

7 Q. So not even noncontrolled narcotics?

8 A. Prescription drugs, no.

9 Q. Does it distribute over-the-counter
10 drugs to Giant Eagle stores?

11 A. Yes.

12 Q. I'm going to show you what's marked as
13 HBC 1.

14 (HBC-Tsipakis Exhibit 1 was marked.)

15 BY MR. GADDY:

16 Q. I'll ask you if you recognize that
17 document.

18 This is the first notice of deposition. Have
19 you seen this before?

20 A. Yes.

21 Q. And have you had the opportunity to
22 review this?

23 A. Parts of it, yes.

24 Q. If you turn to the -- do you see in the
25 upper right-hand corner, as you turn the pages,

1 there's going to be .2, .3, .4, as you go through
2 the page numbers.

3 Do you see that?

4 A. Yes.

5 Q. If you turn to .2. And down at the
6 bottom of the bottom there's a heading that says
7 "Duty to Prepare."

8 Do you see that?

9 A. Yes.

10 Q. It says, "The testimony elicited in the
11 deposition represents HBC's knowledge, not the
12 individual deponent's knowledge."

13 Do you see that?

14 A. Yes.

15 Q. And that's consistent with your
16 understanding?

17 A. Yes.

18 Q. It goes on down to say that "HBC must
19 conduct a thorough investigation in response to
20 deposition notice and must prepare a witness to
21 testify to all matters known or reasonably
22 available to the organization."

23 Do you see that?

24 A. Yes.

25 Q. It then says that "If HBC designee is

1 not knowledgeable about the matters specified in
2 the deposition notice, it must, nonetheless,
3 prepare such designee to give knowledgeable,
4 binding answers."

5 Do you see that?

6 A. Yes.

7 Q. How long have you been with Giant Eagle?

8 A. Since late October 2017.

9 Q. Do you understand that this deposition
10 notice will cover activity going back to 2006?

11 A. Yes.

12 Q. And have you taken steps to prepare to
13 be able to answer questions about HBC's conduct
14 going back to 2006?

15 A. Yes.

16 Q. What did you do to prepare?

17 A. Met with Giant Eagle's internal and
18 external counsel. Spoke to employees within our
19 organization. Looked through documents, and did a
20 diligence.

21 Q. Let me ask you this.

22 When did you first find out you were going to
23 be the designee to testify here?

24 A. Roughly, about four weeks ago.

25 Q. And in the last four weeks, how much

1 time would you say you spent preparing for this
2 deposition?

3 A. Forty to 50 hours.

4 Q. If you would turn towards, for me,
5 please to .6.

6 Do you see at the top of the page it says,
7 "Subject Matters for Testimony"?

8 A. Yes.

9 Q. And are you prepared to give testimony
10 today on behalf of HBC on the topics listed there
11 all the way through N on the next page?

12 A. Yes.

13 Q. And for each of these topics, are you
14 prepared to give testimony going back to 2006?

15 A. Yes.

16 Q. I'm going to show you what I'll mark as
17 Exhibit No. 2 to your deposition here today.

18 (HBC-Tsipakis Exhibit 2 was marked.)

19 BY MR. GADDY:

20 Q. Tell me if you recognize this document,
21 if you had an opportunity to review it before.

22 It is the second 30(b)(6) notice.

23 A. I'm sorry. Your question is?

24 Q. Have you seen this before and had the
25 opportunity to review it?

1 A. Parts of it, yes.

2 Q. And I'll represent to you it has the
3 same obligations as far as requiring you to
4 prepare to provide responsive answers for the
5 relevant time period, which is back to 2006.

6 Did you do that for the topics that you're
7 going to testify about as it relates to this
8 notice as well?

9 A. Is there specific areas that you'd like
10 to point me to that -- as you did on the previous
11 document?

12 Q. Well, sure. If you turn to page 8,
13 Topic 6, 7, and 8, are you prepared to testify on
14 those today?

15 A. Yes.

16 Q. And if you turn to page 9, on Topic 12,
17 are you prepared to testify on that today?

18 A. Yes.

19 Q. And then on page 10, Topics 17, 18, and
20 20, 21, and 22, are you prepared to testify on
21 those today?

22 A. Yes.

23 Q. And the 40 to 50 hours that you told me
24 you spent preparing earlier, was that -- did that
25 also include the time you spent preparing to

1 testify on these topics?

2 A. Yes.

3 MR. BARNES: Jeff, I'll note for the
4 record that he's prepared to testify on these
5 topics as may have been amended by the special
6 master.

7 MR. GADDY: I'm also going to mark, for
8 the record, Exhibit No. 3.

9 (HBC-Tsipakis Exhibit 3 was marked.)

10 BY MR. GADDY:

11 Q. I don't know if you had the opportunity
12 to see this before.

13 Is that familiar to you?

14 A. No.

15 Q. I won't ask you any questions about it,
16 Mr. Tsipakis.

17 You told me a few minutes ago that HBC no
18 longer distributes any prescription drugs to Giant
19 Eagle.

20 That's correct?

21 A. Yes.

22 Q. At some period of time, did HBC have a
23 license to distribute Schedules III, IV, and V
24 controlled substances?

25 A. Yes.

1 Q. What period of time?

2 A. From -- my recollection is from 2009,
3 late 2009, through early 2016.

4 Q. Are you telling me the time period that
5 they actually distributed hydrocodone products or
6 the period for which they had a license?

7 Do you understand the difference?

8 A. Yes, sir.

9 HBC received a license to distribute earlier
10 in 2009, but did not begin distributing products
11 until late 2009.

12 Then it continued to supply product until it
13 was shut down -- till that portion was shut down
14 in 2016.

15 Q. So the license was obtained by HBC prior
16 to 2009; correct?

17 A. My understanding is the license for HBC
18 was obtained in early 2009.

19 Q. Let me see if I can refresh your
20 recollection.

21 I'm going to show you what's been marked as
22 Exhibit 4 to your deposition.

23 (HBC-Tsipakis Exhibit 4 was marked.)

24 BY MR. GADDY:

25 Q. This is HBC's responses to the first set

1 of combined discovery responses.

2 Have you seen this document before?

3 A. Sure.

4 Q. And this is HBC 11 for our internal
5 reference number.

6 A. It looks somewhat familiar, yes.

7 Q. Did you have any -- provide any
8 assistance in preparing the responses to these?

9 A. May I glance through them to --

10 Q. Of course.

11 A. Looking through this, I don't recognize
12 any specific areas that I would have -- at least
13 from the surface, the quick read that I did, I
14 don't see specific areas that I would have added
15 to this.

16 Q. Do you know whether or not you helped
17 gather any documents that would have been
18 responsive to either this or any of the other
19 discovery requests in the case?

20 Have you ever helped the attorneys gather
21 documents or collect documents?

22 A. Can you help me? Can you repeat the
23 question?

24 Q. Sure. So in this litigation, HBC has
25 produced documents to us.

1 Have you ever assisted with that in any way?

2 A. I assisted in the form of allowing and
3 making sure that employees and folks that would
4 have information were available for whatever was
5 needed to gather the information for this case.

6 Q. So you -- would it be fair to say you
7 acted as the liaison to different employees as
8 opposed to you personally gathering documents?

9 A. I assisted -- being newer to the
10 company, there wasn't a lot of documents and
11 information that I had.

12 So certainly it was folks related to, within
13 the organization, that had different knowledge
14 needed. And, as I said, we made sure that people
15 were available, information that was needed was
16 made available to -- to our attorneys and
17 certainly the folks helping prepare for the case.

18 Q. If you would, turn to page 8 of that.

19 And I was asking you earlier about the dates
20 that HBC had a license to distribute controlled
21 substances.

22 Do you recall that?

23 A. Yes.

24 Q. And you agree that to have a license to
25 distribute controlled substances, you have to be

1 registered with the DEA?

2 A. Yes.

3 Q. If you look there in the middle of the
4 page it says that -- the question that's being
5 asked there is, "Please produce each of your
6 suspicious order monitoring system policies and
7 procedures since January 1, 2006."

8 Do you see that?

9 A. Yes.

10 Q. And I'll represent to you that this
11 first paragraph here is a series of -- series of
12 objections.

13 I'm going to take you about halfway down the
14 paragraph. On the right side of the page there's
15 a sentence that starts, "HBC also..."

16 A. "HBC also..."

17 Q. Are you with me?

18 A. Yes.

19 Q. It says, "HBC also objects to the time
20 period of since January 1, 2006 as overly broad,
21 unduly burdensome, not proportional, not
22 relevant."

23 And it goes on to say, "HBC, which did not
24 provide services as a licensed distributor of
25 controlled substances until 2007."

1 Do you see that?

2 A. I do.

3 Q. Does that refresh your recollection that
4 HBC was -- actually was licensed by the DEA as a
5 registrant back in 2007?

6 And then if you continue to read, it says,
7 "They did not distribute any Schedule III opioids
8 until November of 2009."

9 A. I do see that.

10 Q. Do you know which month in 2007 HBC
11 became licensed by the DEA?

12 A. I do not.

13 MR. BARNES: Jeff, if it makes things
14 easier, that answer is going to be amended to
15 2009, because we have since learned that it was
16 2009.

17 MR. GADDY: Okay. When did you find
18 that out?

19 MR. BARNES: During his prep.

20 MR. GADDY: And you're telling me now in
21 the middle of the deposition?

22 MR. BARNES: Well, I'm telling you --
23 I'm obviously telling you now.

24 MR. GADDY: I mean, how long have you
25 known that?

1 MR. BARNES: Probably about 48 hours.

2 MR. GADDY: I got an email from Josh
3 last night and had a call with Josh two days ago.

4 It's fairly significant, don't you think?

5 MR. KOBRIN: They never represented that
6 they distributed before 2009, so that probably
7 never came up and I never thought it was going to
8 be pertinent to this deposition.

9 It doesn't change any of our distribution
10 activities.

11 MR. GADDY: Is there anything else you
12 all are going to be amending, before we keep
13 going, about any of these responses?

14 MR. BARNES: Not that I can think of
15 right now. If something comes to mind, I'll let
16 you know.

17 MR. GADDY: Okay. About 30 minutes ago
18 Josh gave me a new suspicious order that was
19 reported in 2013.

20 Are there any more suspicious orders?

21 MR. BARNES: Yeah. That was for a
22 Control III, which is irrelevant to the case. We
23 thought we would give it to you anyway since you
24 wanted -- you seem to be interested in suspicious
25 orders.

1 Are you complaining that you're getting a
2 suspicious order or don't you want the IIIs at
3 all?

4 MR. GADDY: I'm complaining that I'm
5 getting it the morning of the deposition when
6 discovery has been going on for five or six
7 months.

8 I'm asking if there's any more, that you're
9 aware of, that haven't been given.

10 MR. BARNES: If we find any more
11 irrelevant documents, we'll get them to you as
12 fast as we can.

13 MR. KOBRIN: Just for the record, I
14 emailed you last night. I told you that we
15 discovered it and I would have copies for you this
16 morning. And we gave you those copies.

17 MR. GADDY: I'm just asking if there's
18 anything else.

19 MR. KOBRIN: Not to our knowledge at
20 this time.

21 BY MR. GADDY:

22 Q. Mr. Tsipakis, what's your understanding
23 of the time period in which HBC did, in fact,
24 distribute Schedules III, IV, and V controlled
25 substances?

1 A. From late 2009 to early 2016.

2 Q. And to what businesses or entities did
3 HBC distribute controlled substances?

4 A. To our own stores, Giant Eagle
5 pharmacies.

6 Q. Did HBC distribute to any other
7 businesses, pharmacies, hospitals, physicians,
8 other than Giant Eagle stores?

9 A. No.

10 Q. During the time period that HBC
11 distributed Schedule III controlled substances,
12 would it be accurate to say that opioids, and,
13 more specifically, hydrocodone combination
14 products was one of the drugs that HBC
15 distributed?

16 A. HBC only distributed hydrocodone
17 products as a Schedule III. Once it was
18 reclassified, they no longer distributed those
19 products.

20 Q. So the answer is, yes, from 2009 until
21 200- -- or, excuse me, until hydrocodone was
22 reclassified, HBC did distribute hydrocodone
23 combination products?

24 A. From -- potentially from '09 through the
25 reclass, yes.

1 Q. Were there any Schedule III drugs that
2 HBC refused to distribute?

3 MR. BARNES: Objection. Relevance.
4 Discovery master has held Schedule IIIs to be
5 irrelevant.

6 MR. GADDY: You made your objection.
7 You made your objection, Bob.

8 The witness can answer the question.

9 THE WITNESS: Can you repeat the
10 question, please?

11 BY MR. GADDY:

12 Q. Sure. Are there any Schedule III drugs
13 that HBC refused to distribute?

14 MR. BARNES: Objection.

15 THE WITNESS: When you say "refused," I
16 don't understand.

17 BY MR. GADDY:

18 Q. Sure. Were there any Schedule III drugs
19 that HBC decided these drugs are addictive,
20 they're subject to abuse, we're not going to
21 distribute those drugs?

22 MR. BARNES: Same objection.

23 THE WITNESS: The product mix was based
24 on many factors. There was no -- there was no --
25 there was no block on products, as any business

1 decides what products to carry in the warehouse or
2 not.

3 So I guess I'm still not understanding your
4 question specifically.

5 BY MR. GADDY:

6 Q. Okay. I think it's fairly simple.

7 I'm asking whether or not HBC made a decision
8 to not distribute any particular drug that they
9 were licensed and had the ability to distribute.

10 A. Okay. I understand now.

11 No.

12 Q. Can you give me some examples of the
13 types of hydrocodone combination products that HBC
14 would have distributed?

15 A. Hydrocodone-containing products.
16 Generic Vicodin products. Certainly cough syrups
17 that had hydrocodone in it. Different
18 formulations and different generic names,
19 et cetera. Those types of products.

20 Q. And Vicodin is a product that's a
21 combination of hydrocodone and acetaminophen?

22 A. Correct.

23 Q. Also Lortab, the same type of product?

24 A. Yes.

25 Q. Norco I think is the type of product?

1 A. Yes.

2 Q. And those are all types of drugs that
3 HBC would have distributed from 2009 until 2014
4 when the schedules changed.

5 A. Yes.

6 Q. Now, do you have an understanding of
7 HBC's responsibilities under the Controlled
8 Substance Act?

9 A. I do, yes.

10 Q. Is that something that you have in the
11 normal course of your job duties or is that
12 something that you had to prepare for today?

13 A. Specifically to HBC, it's as a
14 registrant, so it has a duty to uphold all of the
15 laws that it's governed by, yes.

16 Q. My question was a little bit different.

17 Did you have an understanding of those laws
18 and regulations in the course of your own position
19 with Giant Eagle or is that something that you had
20 to prepare for today?

21 And let me kind of explain what I'm asking.

22 You would agree that there's different rules
23 and regulations for pharmacies than there are for
24 distributors; correct?

25 A. Yes.

1 Q. And your position with Giant Eagle,
2 would it be fair to say, more relates to the
3 pharmacy side?

4 A. My current position?

5 Q. Yes.

6 A. I'm responsible for the total pharmacy
7 operations.

8 Q. Does that include the distribution of
9 Schedule II, III narcotics?

10 A. I don't directly oversee the warehouse.
11 But certainly I have -- I'm a stakeholder within
12 the total company.

13 As an officer of the company, it -- I have an
14 obligation for all portions of the company,
15 including distribution, although I don't
16 day-to-day oversee that.

17 Q. So did you have to prepare to be able to
18 testify today about HBC's responsibilities under
19 the Controlled Substance Act as it relates to its
20 role as a distributor?

21 A. Yes.

22 Q. I'm going to show you PGent 40, which
23 I'm going to mark as Exhibit No. 5.

24 (HBC-Tsipakis Exhibit 5 was marked.)
25

1 BY MR. GADDY:

2 Q. And I'll represent to you this is the
3 legislative history leading up to the -- what's
4 commonly referred to as the Controlled Substance
5 Act.

6 Do you know if you've ever seen this document
7 before?

8 A. Vaguely familiar.

9 Q. Is HBC familiar and have an
10 understanding of the Controlled Substance Act?

11 A. Yes.

12 Q. If you turn to -- the numbering system
13 is a little bit different on this one. You'll
14 have a dash. And I'm on page -002, the second
15 page of the document.

16 Are you with me?

17 A. Yes, sir.

18 Q. If you go down about two-thirds,
19 three-fourths of the way down the page, there's a
20 section that says "Principal Purpose of this
21 Bill."

22 Do you see that?

23 A. I'm sorry. Where? The second page?

24 Q. Let me actually -- let me start at the
25 very top first.

1 A. Okay.

2 Q. At the very top of the page, see it's
3 got the HR, it's got the bill number, and then
4 below that it shows the session of Congress 1970?

5 A. Yes.

6 Q. Do you see that?

7 Does HBC understand that there's a Controlled
8 Substance Act which has been in effect since 1970?

9 A. Yes.

10 Q. Now, if you go down about three-fourths
11 of the way down the page, we get to a section, the
12 title is "Principal Purpose" of the bill.

13 A. I see that.

14 Q. And do you see there, it says, "This
15 legislation is designed to deal in a comprehensive
16 fashion with the growing menace of drug abuse in
17 the United States through providing authority for
18 increased efforts in drug abuse prevention and
19 rehabilitation of users, through providing more
20 effective means for law enforcement aspects of
21 drug abuse prevention and control, and by
22 providing for an overall balanced scheme of
23 criminal penalties for offenses involving drugs."

24 Do you see that?

25 A. Yes.

1 Q. Is that consistent with HBC's
2 understanding of the purposes of the Controlled
3 Substance Act?

4 A. Yes.

5 Q. If you would turn for me, please, to
6 -005.

7 And there -- at the top of the page you see
8 Title 2, Control and Enforcement?

9 Do you see that?

10 A. Yes.

11 Q. It says, "This bill provides for control
12 by the Justice Department of problems related to
13 drug abuse through registration of manufacturers,
14 wholesalers, retailers, and all others in the
15 legitimate distribution chain."

16 Do you see that?

17 A. Yes.

18 Q. And for our purposes here today, you
19 agree that HBC would be a wholesaler?

20 A. Yes.

21 Q. It goes on to say, "And it makes
22 transactions outside the legitimate distribution
23 chain illegal."

24 Do you see that?

25 A. Yes.

1 Q. What does that mean to HBC?

2 MR. BARNES: I'm going to object to the
3 extent you're asking him to interpret the
4 Controlled Substances Act.

5 He's not a lawyer. And it's outside the
6 scope of the special master's ruling.

7 THE WITNESS: These aren't my words.
8 But certainly, from reading it, it would tell me
9 closed system, and certainly setting up the
10 framework of the interaction between the
11 government and manufacturers, wholesalers,
12 retailers.

13 BY MR. GADDY:

14 Q. Is HBC familiar with the concept of a
15 closed system of distribution?

16 A. Yes.

17 Q. What does that mean?

18 A. A closed system that has adequate
19 controls to prevent diversion and theft, and
20 making sure drugs are only -- prescription drugs
21 are -- are in that closed system, and not -- and
22 not ever outside of the system.

23 Q. And why is that important?

24 A. To prevent diversion and theft.

25 Q. Why is it important to prevent diversion

1 and theft?

2 A. I think it's obvious. To make sure
3 medications and the drugs are going to the
4 intended users, intended...

5 Q. Turn to page -008 for me, please.

6 The second full paragraph starts, "The bill
7 is designed..."

8 Do you see that?

9 A. Yes.

10 Q. It says, "The bill is designed to
11 improve the administration and regulation of
12 manufacturing, distribution, and dispensing of
13 controlled substances by providing for a closed
14 system of drug distribution for legitimate
15 handlers of such drugs."

16 Do you see that?

17 A. Yes.

18 Q. It says, "Such a closed system should
19 significantly reduce the widespread diversion of
20 these drugs out of legitimate channels into the
21 illicit market."

22 Is that consistent with your understanding of
23 the purpose of the Controlled Substance Act?

24 MR. BARNES: Same objection. Asking him
25 to interpret the Controlled Substances Act.

1 You're asking for a legal interpretation.

2 MR. GADDY: Bob, all you got to do is
3 object. I don't need to hear his objections --
4 your objections coming from him.

5 MR. BARNES: Well, you may not need to
6 hear it, but whoever is going to rule on it is
7 going to hear it.

8 MR. GADDY: You preserve your record by
9 objecting.

10 MR. BARNES: Yeah. And I'm going to put
11 the full record.

12 You're asking him to interpret the Controlled
13 Substances Act, which the special master has said
14 it's outside the purview of what you should be
15 asking.

16 THE WITNESS: Could you repeat your
17 question, please?

18 BY MR. GADDY:

19 Q. Sure. It says, "Such a closed system
20 should significantly reduce the widespread
21 diversion of these drugs out of legitimate
22 channels into the illicit market."

23 Do you see that?

24 A. Yes.

25 Q. Is that consistent with HBC's

1 understanding of the purpose of the Controlled
2 Substances Act?

3 MR. BARNES: Same objection.

4 Go ahead and answer.

5 THE WITNESS: As I read it here, it's to
6 keep drug distribution safe and secure and prevent
7 diversion and theft in a closed system.

8 BY MR. GADDY:

9 Q. My question is a little bit different.
10 Is that HBC's understanding?

11 A. For what I just said, yes. That's our
12 understanding, to have prescription drugs go to
13 legitimate -- where they need to go.

14 Q. I'm going to show you what I'm going to
15 mark as Exhibit No. 6.

16 (HBC-Tsipakis Exhibit 6 was marked.)

17 MR. GADDY: This is -- P-GEN-85 is our
18 internal number.

19 BY MR. GADDY:

20 Q. This is 21 USC Section 823.

21 Are you familiar with this code?

22 A. It's vaguely familiar.

23 Q. And you testified earlier that in order
24 to distribute any controlled substances, HBC had
25 to be registered by the DEA; correct?

1 A. Correct.

2 Q. And you can start at the first page
3 there. Two-thirds down the page on the left side,
4 we have the registration requirement; correct?

5 A. The 823 heading?

6 Q. Correct.

7 A. Correct.

8 Q. And then it goes on. And the first one
9 that it talks about is manufacturers of controlled
10 substances. And they have to register, too;
11 correct?

12 A. Yes.

13 Q. If you turn the page for me, please, and
14 go to subsection (e).

15 A. Yes.

16 Q. There you see the distributors of
17 Schedule III, IV, and V controlled substances also
18 have to register with the DEA; is that correct?

19 A. Correct.

20 Q. It says, "The attorney general shall
21 register an applicant to distribute controlled
22 substances in Schedules III, IV, or V unless he
23 determines that the issuance of such registration
24 is inconsistent with the public interest."

25 Do you see that?

1 A. Yes.

2 Q. And then they list the factors to
3 determine.

4 And the first factor is "The maintenance of
5 effective controls against diversion of particular
6 controlled substances into other than legitimate
7 medical, scientific, and industrial channels."

8 Do you see that?

9 A. Yes.

10 Q. You agree that HBC was required to
11 maintain effective controls against diversion of
12 controlled substances even if they were only
13 distributing III, IV, or V substances?

14 MR. BARNES: Objection.

15 BY MR. GADDY:

16 Q. Correct?

17 MR. BARNES: Same objection as prior.

18 THE WITNESS: Yes.

19 BY MR. GADDY:

20 Q. HBC didn't think that they weren't
21 required to have controls against diversion in
22 place because they were only distributing IIIs,
23 IVs, and Vs, did they?

24 A. No.

25 Q. Explain for me, please, from a wholesale

1 distributor perspective as far as infrastructure,
2 security, logistics, are there different
3 requirements if you're distributing III, IV, and V
4 scheduled drugs versus Schedule II?

5 A. The requirements are commensurate on the
6 drugs that you're distributing.

7 In our case, we're distributing to our own
8 stores in a closed system. So the controls -- I
9 guess the controls -- I mean, the obligations
10 are the obligations we follow.

11 So can you specifically word your question?

12 Q. Sure. Maybe that was confusing.

13 I'm asking if logistically, from an
14 infrastructure, as far as security requirements or
15 vault requirements as it relates to the DEA, are
16 the requirements different for a distributor who
17 is distributing Schedule II drugs versus a
18 distributor who is distributing III, IVs, and V.

19 A. Thank you for the clarification. I
20 understand the question.

21 Yes, there is. Schedule IIs versus III
22 through V, there is a difference.

23 Q. Can you generally describe those
24 differences for me?

25 A. The differences, typically, the

1 Schedule IIs are in a vault or a more -- the
2 security requirements are different. There's
3 tighter controls and tighter requirements needed
4 for Schedule II drugs.

5 Q. You mentioned a vault. Are there any
6 others that you're aware of?

7 A. Certainly, there's a whole host of them,
8 yes. But HBC never distributed Schedule II drugs.

9 Q. You mentioned the vault. Are there any
10 other additional requirements or controls that are
11 in place for Schedule IIs as opposed to
12 Schedule IIIs?

13 MR. BARNES: You mean generally or at
14 HBC?

15 MR. GADDY: Generally in the
16 regulations.

17 THE WITNESS: Yes.

18 BY MR. GADDY:

19 Q. Do you know any of them?

20 Are you able to tell us any other than the
21 vault?

22 A. I didn't prepare for those.

23 Q. So no?

24 A. No.

25 Q. Now, even though HBC did not distribute

1 Schedule II drugs to Giant Eagle stores, Giant
2 Eagle pharmacies have dispensed Schedule II drugs
3 going back to 2006; correct?

4 A. Dispensed, yes; correct.

5 Q. And they would receive their Schedule II
6 drugs from wholesalers other than HBC?

7 A. Yes.

8 Q. They received Schedule II drugs from
9 McKesson?

10 A. Yes.

11 Q. From Anda?

12 A. Yes.

13 Q. Are there any other distributors that
14 supplied Giant Eagle pharmacies with Schedule II
15 drugs going back to 2006 that you're aware of?

16 A. No.

17 Q. You mentioned just a moment ago that HBC
18 was only distributing to Giant Eagle stores. I
19 think you said only to their own stores.

20 Is that how you said it?

21 A. Correct.

22 Q. So from your perspective, HBC and Giant
23 Eagle are the same -- are one in the same?

24 MR. BARNES: You mean legally?

25 If you're asking for a legal statement for

1 what the entity structures are, he hasn't been
2 produced to respond to that.

3 BY MR. GADDY:

4 Q. You can answer the question.

5 A. Giant Eagle owns HBC. HBC is part of
6 Giant Eagle, so...

7 Q. Even though HBC is only shipping to the
8 store that owns it, to Giant Eagle, you agree
9 they're still required to follow the federal law,
10 federal regulations as it relates to the
11 Controlled Substance Act?

12 A. Of course, yes.

13 Q. I want to go back to No. 5, which was
14 the Controlled Substance Act.

15 Flip for me, please, to page 034. Do you see
16 there, under Section 2, where it says, "The
17 illegal importation, manufacture, distribution,
18 and possession, and improper use of controlled
19 substances have a substantial detrimental effect
20 on the public's health and general welfare."

21 Do you see that?

22 A. Yes.

23 Q. Does HBC agree with that?

24 MR. BARNES: Objection. Same objection.
25 Asking for a legal interpretation.

1 THE WITNESS: As I read it, illegal
2 importation, stressing illegal, yes, I would
3 agree.

4 BY MR. GADDY:

5 Q. Well, let me ask you: Forgetting that
6 this language is in the Controlled Substance Act,
7 does HBC agree with the statement that the illegal
8 distribution, possession, and improper use of
9 controlled substances has a substantial
10 detrimental effect on the public's health and
11 welfare?

12 MR. BARNES: Same objection. Beyond the
13 scope of Special Master Cohen's ruling.

14 THE WITNESS: Yes.

15 BY MR. GADDY:

16 Q. Does HBC agree that as a distributor, as
17 one of the links in the closed system of
18 distribution, that HBC plays a critical role in
19 preventing the diversion of controlled substances?

20 MR. BARNES: Same objection.

21 THE WITNESS: We have an obligation to
22 make sure diversion doesn't happen, sure.

23 BY MR. GADDY:

24 Q. Sure. But you agree that HBC plays a
25 critical role in that process.

1 A. We have an obligation and a role to make
2 sure the controlled substances that we distribute
3 stay in the closed system and get to the intended
4 recipient, yes.

5 Q. And that they not get to people who were
6 not the intended recipients; correct?

7 A. Yes.

8 Q. Do you agree that it was no secret that
9 drugs, opioids such as hydrocodone combination
10 products, have a great potential for abuse?

11 A. All drugs, if they're not used
12 appropriately, can have a detrimental effect.
13 But, certainly, hydrocodone products, if they're
14 abused, can have detrimental effects, sure.

15 Q. HBC had an understanding that
16 hydrocodone products were addictive before they
17 started distributing those drugs back in 2009;
18 correct?

19 A. As the -- HBC understands there's
20 different classes of drugs, Schedule II being the
21 most addictive other than Schedule I, and then the
22 further down the schedule, less addictive.

23 But, yes. Generally, yes.

24 Q. So HBC had an understanding that
25 hydrocodone combination products, like the ones we

1 talked about earlier, whether it's Vicodin or
2 Lortabs, or anything that hydrocodone is combined
3 with, HBC had an understanding, even before they
4 began to distribute those drugs, that those drugs
5 were addictive and subject to abuse.

6 A. If they're misused, yes.

7 Q. And you would agree that HBC has always
8 had that knowledge and understanding?

9 MR. BARNES: Objection.

10 You, yourself, said this goes back to 2006,
11 and they didn't begin distributing until 2009.

12 BY MR. GADDY:

13 Q. Go ahead.

14 A. I think it's public knowledge,
15 certainly. HBC -- it's public knowledge certainly
16 that they can be addictive, sure.

17 Q. And that has been even before HBC
18 started distributing these drugs?

19 A. Sure.

20 Q. I'm done with that one.

21 I'm going to show you page N86, which I'm
22 going to mark as No. 7, I believe.

23 (HBC-Tsipakis Exhibit 7 was marked.)

24 BY MR. GADDY:

25 Q. Do you recognize this type of document?

1 A. It's vaguely familiar.

2 Q. Up in the upper left-hand corner, do you
3 see the seal, DEA seal?

4 A. Yes.

5 Q. And you consider the DEA to be a
6 trustworthy source for information about
7 controlled substances?

8 A. Sure, yes.

9 Q. And you recognize this to be a drug fact
10 sheet for the drug hydrocodone?

11 A. Yes.

12 Q. And you would agree the DEA is a
13 trustworthy source about which drugs are diverted
14 or abused more than other drugs?

15 A. Sure, yes.

16 Q. You see at the bottom of the page it
17 says this is from the Drug Enforcement
18 Administration and then has the DEA website there
19 at the bottom of the page. Do you see that?

20 A. Yes.

21 Q. Let's go to the very top part, the
22 overview. Do you see where it says, "Hydrocodone
23 is the most frequently prescribed opioid in the
24 United States and is associated with more drug
25 abuse and diversion than any other licit or

1 illicit opioid."

2 Do you see that?

3 A. Yes.

4 Q. And was that HBC's understanding as
5 well?

6 MR. BARNES: Can we get a timeframe for
7 both this document and your question?

8 MR. GADDY: Sure. We'll get there.

9 THE WITNESS: So your question was
10 whether HBC knew the fact that it's the most
11 frequently prescribed opioid and whether it's the
12 one that's mostly abused?

13 BY MR. GADDY:

14 Q. Correct.

15 A. The exact fact of which ranks one or
16 two, et cetera, HBC understood that it's certainly
17 a drug that has had abuse certainly and it's high
18 on that list. Exactly whether it's number one,
19 number two, I can't answer whether we had that
20 position or not.

21 Q. Let's address the bottom of this. If
22 you go to the second page -- I don't think the
23 document has a date on it, but if you go to the
24 second page, do you see there's the heading Legal
25 Status in the United States?

1 A. Yes.

2 Q. You see in the first line it says,
3 "Hydrocodone is a Schedule II narcotic that is
4 marketed in a multi-ingredient Schedule III
5 product."

6 Do you see that?

7 A. Yes.

8 Q. So that tells us that this document
9 certainly predates the scheduling change; correct?

10 A. Well, if it says hydrocodone is a
11 Schedule II, that would mean that this would be
12 post-October 2014; right?

13 Q. Well, pure hydrocodone has always been
14 Schedule II; right? It's the hydrocodone
15 combination products that was III. Do you agree
16 with that?

17 A. Yes.

18 Q. Does HBC have that understanding, that
19 pure hydrocodone has always been a Schedule II
20 narcotic?

21 A. Yes.

22 Q. Where it says that multi-ingredient
23 products such as hydrocodone and acetaminophen
24 would be a Schedule III product; correct?

25 A. Yes.

1 Q. So from this sentence, we know that this
2 document predates the scheduling change; correct?

3 A. Yes. Thank you.

4 Q. Let's go back to the first page. Again,
5 that first sentence says, "Hydrocodone is the most
6 frequently prescribed opioid in the United States
7 and is associated with more drug abuse and
8 diversion than any other licit or illicit opioid."

9 Do you see that?

10 A. I do.

11 Q. HBC from '09 to 2014 distributed
12 hydrocodone combination products; correct?

13 A. Yes.

14 Q. And did HBC have an understanding that
15 hydrocodone was associated with more drug abuse
16 and diversion than any other opioid?

17 MR. BARNES: Is the question what HBC
18 distributed, hydrocodone combination products, or
19 are you talking about hydrocodone as a Schedule
20 II?

21 MR. GADDY: I think my question was
22 clear.

23 THE WITNESS: Just to make sure I have
24 it right, hydrocodone-containing products, so
25 Schedule III; correct?

1 BY MR. GADDY:

2 Q. Yes.

3 A. So generally, yes.

4 Q. HBC had that understanding?

5 A. Yes.

6 Q. If you keep going down in that first
7 paragraph, it says, "Its analgesic potency is
8 similar to morphine."

9 Did HBC have that understanding?

10 A. Where it says "looks like"? I'm sorry.
11 Where are you at?

12 Q. I skipped a sentence. You can look up
13 on the screen, too. He's got it highlighted for
14 you.

15 A. Oh, thank you.

16 Q. I told you that before we started.

17 A. Thank you. Yes, I see that.

18 Q. And you actually have one here in front
19 of you, too.

20 A. I'm sorry. Thank you.

21 Q. That even might be more helpful.

22 A. That's much helpful. Thank you.

23 Q. And HBC always had that understanding
24 that the properties of hydrocodone is similar to
25 morphine; correct?

1 A. It's not exactly morphine, but it's
2 similar, yes.

3 Q. I'm going to skip another sentence.
4 Then it says, "There are numerous brand and
5 generic hydrocodone products marketed in the
6 United States. All are combination products. The
7 most frequently prescribed combination product is
8 hydrocodone and acetaminophen," it says, "for
9 example, Vicodin, Lorcet and Lortab."

10 And those are some of the ones we talked
11 about earlier that HBC distributed; correct?

12 A. Correct.

13 Q. It says, "Other examples of combination
14 products include those containing aspirin,
15 ibuprofen and antihistamines."

16 Do you see that?

17 A. Yes.

18 Q. Again, those would have been the types
19 of Schedule III narcotics that HBC distributed to
20 Giant Eagle pharmacies; correct?

21 A. Correct.

22 Q. We talked a little bit about dates. I'm
23 going to show you what I'm going to mark as
24 Exhibit No. 8.

25 (HBC-Tsipakis Exhibit 8 was marked.)

1 MR. GADDY: This is going to be P-GEN-55
2 internally.

3 BY MR. GADDY:

4 Q. And if you look at the very first page,
5 do you see this is a report from the U.S. General
6 Accounting Office?

7 A. Yes.

8 Q. And if you read just below there, it's a
9 report to the Subcommittee on Oversight and
10 Investigations Committee on Energy and Commerce,
11 House of Representatives. Do you see that?

12 A. Yes.

13 Q. You recognize this as being a report to
14 Congress?

15 A. Yes.

16 Q. And over on the left-hand side of the
17 page, do you see the date of May 2002?

18 A. Yes.

19 Q. So this was a full little over seven
20 years before HBC began distributing hydrocodone
21 products; correct?

22 A. Yes.

23 Q. And the title of the report is
24 Prescription Drugs, and it looks like it's going
25 to spend most of its time talking about monitoring

1 programs.

2 Do you see that?

3 A. Yes.

4 Q. And if you turn to .3, do you see it
5 starts with the date of May 17, 2002?

6 A. Yes.

7 Q. And then it starts in the body of the
8 letter, it says, "The increasing diversion of
9 prescription drugs for illegal use is a disturbing
10 trend in the nation's battle against drug abuse.
11 Prescription drug diversion is the channeling of
12 illicit pharmaceuticals for illegal purposes or
13 abuse."

14 Do you see that?

15 A. Yes.

16 Q. Do you know if HBC was aware of this
17 document when it began distributing hydrocodone
18 combination products in 2009?

19 A. I do not.

20 Q. They certainly could have been aware of
21 it if they wanted to; correct?

22 A. I suppose, yes.

23 Q. It goes on to say --

24 MR. BARNES: Object. Don't speculate.

25 If you know, you know.

1 THE WITNESS: I don't know. I don't
2 know whether they were aware of it.

3 MR. GADDY: Bob, if you want to make an
4 objection, make an objection. Please don't tell
5 the witness how to answer the question. I want
6 his answers.

7 MR. BARNES: If you continue asking him
8 questions outside the agreed scope and
9 timeframe -- this is a 2002 document. HBC didn't
10 begin distributing --

11 MR. GADDY: Bob, if you want to have a
12 conversation off the record during a break, we can
13 do that.

14 MR. BARNES: Can you explain why you're
15 asking about a 2002 document?

16 BY MR. GADDY:

17 Q. Mr. Tsipakis, it goes on to say, "It can
18 involve activities such as doctor shopping by
19 individuals who visit numerous physicians to
20 obtain multiple prescriptions, illegal sales of
21 prescription drugs by physicians or pharmacists
22 and prescription forgery."

23 Do you see that?

24 A. Yes.

25 Q. Are those the types of -- is HBC aware

1 that those are the types of issues that can lead
2 to diversion?

3 A. Sure, yes.

4 Q. It goes on to say, "The most frequently
5 diverted prescription drugs are those that are
6 prone to abuse, addiction and dependence, such as
7 hydrocodone, the active ingredient in Lortab and
8 many other drugs."

9 Do you see that?

10 A. Yes.

11 Q. It then goes on to mention several
12 others, but the first one it mentioned was
13 hydrocodone. And then it specifically referenced
14 a hydrocodone combination product; correct?

15 A. Correct.

16 Q. So was HBC aware going all the way back
17 to 2002, that hydrocodone products such as Lortab,
18 Vicodin that you mentioned earlier were some of
19 the most frequently diverted prescription drugs?

20 MR. BARNES: Object to form.

21 THE WITNESS: I think it was public
22 knowledge that those drugs were part of a drug
23 abuse problem and certainly being diverted.

24 BY MR. GADDY:

25 Q. And that was public knowledge and

1 knowledge to HBC prior to when they got into the
2 business of distributing these drugs in 2009;
3 correct?

4 MR. BARNES: Object to form.

5 THE WITNESS: I can't -- I can't
6 speculate on what HBC knew or didn't know, but...

7 BY MR. GADDY:

8 Q. Well, you agree it was public knowledge
9 though?

10 A. Yes.

11 Q. Now, as a registrant under the
12 Controlled Substance Act, HBC is aware that there
13 are certain federal regulations that they must
14 comply with; true?

15 A. Yes.

16 Q. And those regulations apply whether or
17 not you're a distributor of Schedule II drugs or
18 whether or not you're only a distributor of
19 Schedules III, IV and V drugs; correct?

20 A. Correct.

21 Q. I'm going to show you what I'll mark as
22 Exhibit No. 9.

23 (HBC-Tsipakis Exhibit 9 was marked.)

24 BY MR. GADDY:

25 Q. This is -- you recognize this as being a

1 document from the DEA website? I think you see
2 the seal up in the top left corner.

3 A. Yes.

4 Q. And do you recognize that what we're
5 looking at here comes from Title 21 of the Code of
6 Federal Regulations and is Regulation 1301.74?

7 Do you see that?

8 A. Yes.

9 Q. Is this a regulation that HBC is
10 familiar with?

11 A. Yes.

12 Q. Is this a regulation that HBC
13 understands that it must comply with as a
14 distributor of controlled substances?

15 A. Yes; one of many, but, yes, this
16 particular one, yes.

17 Q. And if you start in subsection (a), this
18 regulation says, "Before distributing a controlled
19 substance to any person who the registrant does
20 not know to be registered to possess the
21 controlled substance, the registrant shall make a
22 good faith inquiry..."

23 Do you see where I am there?

24 A. Yes.

25 Q. This really wasn't incredibly applicable

1 to HBC because they were only distributing to
2 Giant Eagle pharmacies; correct?

3 A. Correct.

4 Q. And obviously, HBC knew that all the
5 Giant Eagle pharmacies were registered; correct?

6 A. Yes.

7 Q. If we go on to the next paragraph, it
8 says, "The registrant shall design and operate a
9 system to disclose to the registrant suspicious
10 orders of controlled substances."

11 Do you see that?

12 A. Yes.

13 Q. "The registrant shall inform the field
14 division office of the Administration in his area
15 of suspicious orders when discovered by the
16 registrant. Suspicious orders include orders of
17 unusual size, orders deviating substantially from
18 a normal pattern, and orders of unusual
19 frequency."

20 Do you see that?

21 A. Yes.

22 Q. And did HBC have an understanding that
23 prior to distributing any Schedule III narcotics
24 or Schedule IV narcotics or Schedule V narcotics,
25 that they had an obligation to design and operate

1 such a system that would disclose suspicious
2 orders?

3 A. Yes.

4 Q. And you agree that if HBC were to not
5 design and operate such a system, they would be in
6 violation of this regulation?

7 MR. BARNES: Object to form.

8 THE WITNESS: This is part of the
9 security requirements, but certainly this is one
10 component of the total -- the controlled substance
11 security provision to be deemed compliant. So
12 this is part of the overall security measures that
13 you need to have, but yes.

14 BY MR. GADDY:

15 Q. So if they did design and operate a
16 system to detect suspicious orders, they would be
17 violating this regulation?

18 MR. BARNES: Object to the form.

19 THE WITNESS: They needed to have a
20 system to disclose suspicious orders, yes, but it
21 needs to be in concert with the other requirements
22 as well.

23 BY MR. GADDY:

24 Q. But if they didn't have a system to
25 detect suspicious orders, they would be in

1 violation; correct?

2 MR. BARNES: Object to form.

3 THE WITNESS: They need to have a system
4 to disclose suspicious orders, yes.

5 BY MR. GADDY:

6 Q. And if they don't, they'd be in
7 violation; correct?

8 MR. BARNES: Object to form.

9 THE WITNESS: Potentially be in
10 violation, yes.

11 BY MR. GADDY:

12 Q. How could they not have a system -- what
13 do you mean by "potentially"? How could they not
14 have a system and not be in violation?

15 A. My understanding is you've given me one
16 subsection of the security provision, and I
17 believe the security provision has the registrant
18 has different obligations within it.

19 This particular piece that you're showing me
20 is one of them, but it's one factor of the total.
21 Your system needs to have a provision to disclose
22 suspicious orders to the registrant, yes.

23 Q. And if you don't have a system that
24 discloses suspicious orders to the registrant, you
25 would be violation of this regulation; correct?

1 MR. BARNES: Object to form.

2 THE WITNESS: Potentially, yes.

3 BY MR. GADDY:

4 Q. The word "potentially" is what I'm not
5 understanding. How could you not have a system
6 that discloses suspicious orders but still be in
7 compliance with this?

8 MR. BARNES: Same objection. You're
9 asking him to interpret a regulation.

10 MR. GADDY: You made your objection.

11 THE WITNESS: You're asking me to broad
12 brush a statement that is a section of code. This
13 code has multiple provisions within it, and the
14 suspicious order portion is one piece of it.

15 I'm sorry if I'm not understanding your
16 question.

17 BY MR. GADDY:

18 Q. We certainly agree that HBC had an
19 obligation to design a system, operate a system
20 that would disclose to the registrant, HBC,
21 suspicious orders of controlled substances;
22 correct?

23 A. Yes.

24 Q. That obligation was in place whether
25 we're talking about Schedule II controlled

1 substances or whether we're talking about Schedule
2 III controlled substances; correct?

3 A. Correct.

4 Q. And HBC was aware of that back in 2009?

5 A. Yes.

6 Q. And was HBC aware back in 2009 that DEA
7 was actively enforcing this regulation?

8 A. HBC was generally aware that the DEA was
9 enforcing all of it. I don't know its specific
10 enforcement activities, but I would imagine they
11 were enforcing all their provisions.

12 Q. I'll show you what I'm going to mark as
13 Exhibit No. 10.

14 MR. GADDY: It's PGent 75 internally.

15 (HBC-Tsipakis Exhibit 10 was marked.)

16 BY MR. GADDY:

17 Q. This is a document, if you see in the
18 upper left-hand page, from the United States
19 Attorney's Office out of Colorado. Do you see
20 that?

21 A. Yes.

22 Q. And it looks like a press release that
23 was posted on their website or something to that
24 effect. Do you see that?

25 A. Yes.

1 Q. You see under the black box there, it's
2 got the date of October 2, 2008. Do you see that?

3 A. Yes.

4 Q. And this was prior to HBC distributing
5 any hydrocodone combination products; correct?

6 A. Yes.

7 Q. The heading there says "Cardinal Health
8 Incorporated agrees to pay \$34 million to settle
9 claims that it failed to report suspicious sales
10 of widely abused controlled substances."

11 Do you see that?

12 A. Yes.

13 Q. Was HBC aware of this settlement prior
14 to it beginning to distribute controlled
15 substances?

16 A. I don't know.

17 Q. It says in the first paragraph,
18 "Cardinal Health, Inc., one of the nation's
19 largest distributor of pharmaceutical drugs, has
20 agreed to settle allegations that it violated
21 federal reporting provisions relating to its
22 handling of certain controlled substances
23 regulated by the DEA. Under the agreement between
24 the company and seven U.S. Attorney offices,
25 Cardinal Health agreed to pay 34 million in civil

1 penalties for alleged violations of its
2 obligations under the Controlled Substance Act."

3 Do you see that?

4 A. Yes.

5 Q. In the next paragraph it goes to say,
6 "Cardinal Health, which operates 27 DEA registered
7 distribution facilities, failed to report to DEA
8 suspicious orders of hydrocodone that it then
9 distributed to pharmacies that filled illegitimate
10 prescriptions originating from rogue internet
11 pharmacy websites."

12 Do you see that?

13 A. Yes.

14 Q. Was HBC aware that in 2008, the DEA was
15 investigating and pursuing violation of the
16 regulation we just went over as it related to
17 distributors failing to report suspicious orders
18 of hydrocodone?

19 MR. BARNES: Object to form. Jeff, I'm
20 also going to ask you: What topic are you on?
21 You're asking him about a Cardinal Health
22 settlement agreement. He's not been produced to
23 talk about anything related to Cardinal.

24 BY MR. GADDY:

25 Q. You can answer the question.

1 MR. BARNES: Objection. Outside the
2 scope of the 30(b)(6) topics.

3 THE WITNESS: I'm not sure if HBC was
4 aware of the settlement or not.

5 BY MR. GADDY:

6 Q. If you skip down to the bottom of the
7 page, in the second to last paragraph, it says,
8 "Hydrocodone is the generic name..."

9 Do you see that?

10 A. I'm sorry. Where are you at?

11 Q. At the very bottom of the page.

12 A. Yes. I see it. Thank you.

13 Q. It says, "Hydrocodone is the generic
14 name of a prescription painkiller that is
15 classified under federal narcotics law as a
16 Schedule III controlled substance."

17 Do you see that?

18 A. Yes.

19 Q. Then in the next paragraph, it says,
20 "Hydrocodone is the most commonly diverted and
21 abused controlled pharmaceutical in the United
22 States."

23 Do you see that?

24 A. Yes.

25 Q. When HBC set about to design and operate

1 a system to disclose suspicious orders for their
2 hydrocodone products, which would have been
3 scheduled as III under the Controlled Substance
4 Act, did HBC take into account the fact that
5 hydrocodone was the most commonly diverted and
6 abused pharmaceutical in the United States?

7 MR. BARNES: Object to form.

8 THE WITNESS: HBC -- HBC when setting up
9 to distribute controlled substances did their due
10 diligence and set up their system to follow the
11 law.

12 BY MR. GADDY:

13 Q. Did they take into account that they
14 were going to be distributing a drug which is the
15 most commonly diverted and abused controlled
16 pharmaceutical in the United States?

17 Did they take that into account when they set
18 up their system to disclose suspicious orders?

19 MR. BARNES: Object to form.

20 THE WITNESS: I don't know.

21 BY MR. GADDY:

22 Q. I'm going to show you what I'll mark as
23 Exhibit No. 11.

24 (HBC-Tsipakis Exhibit 11 was marked.)
25

1 BY MR. GADDY:

2 Q. I'll represent to you this is a Reuters
3 article from April 2007. Do you see the date
4 there above the title?

5 A. Yes.

6 Q. The title is "AmerisouceBergen gets DEA
7 distribution halt order." Do you see that?

8 A. Yes.

9 Q. It goes on to say in the first paragraph
10 there that, "The U.S. Drug Enforcement
11 Administration has temporarily suspended its
12 Orlando, Florida distribution center's license to
13 distribute DEA controlled substances and listed
14 chemicals," talking about AmerisouceBergen.

15 Do you see that?

16 A. Yes.

17 Q. It goes on to say, "The DEA asserts that
18 AmerisouceBergen did not maintain effective
19 controls against diversion of controlled
20 substances, specifically hydrocodone."

21 Do you see that?

22 A. Yes.

23 Q. Did HBC take into account this
24 information that we've now seen with Cardinal
25 Health and now with AmerisouceBergen that the DEA

1 was investigating and sanctioning distributors for
2 not having systems that disclosed orders of
3 controlled substances?

4 Did HBC take that into account when designing
5 and operating their system that they put in place
6 prior to 2009?

7 MR. BARNES: Object to form. Outside
8 the scope of the 30(b)(6) topics.

9 THE WITNESS: I can't tell you --

10 MR. KOBRIN: I'll object to form, not
11 related to the scope of topics.

12 BY MR. GADDY:

13 Q. Go ahead.

14 A. I can't tell you if HBC had this in mind
15 or not.

16 MR. BARNES: Jeff, this says page 1 of
17 10. Are the other nine pages, are they deleted?

18 MR. GADDY: This is the end of the
19 article. The other nine pages were other
20 articles.

21 BY MR. GADDY:

22 Q. I want to go back to those combined
23 discovery responses. I think that was No. 4. Did
24 you find it?

25 A. Yes.

1 Q. And if you would, turn for me again
2 please back to page 2. We already looked at that
3 question earlier this morning.

4 MR. GADDY: This is HBC 11 internally.

5 BY MR. GADDY:

6 Q. And you recall we looked at this
7 earlier. We're on .8. Did I say 2? I meant .8.
8 That's where question 2 is.

9 A. Okay.

10 Q. It says, "Please produce each of your
11 suspicious order monitoring system policies and
12 procedures since January 1, 2006 and identify the
13 Bates stamp range for each and please identify the
14 effective dates that each was in force and
15 effect."

16 Do you see that?

17 A. Yes.

18 Q. And if you turn to the next page, .9.

19 A. Yes.

20 Q. I'm going to start with the first full
21 paragraph on the page. Are you with me?

22 A. Starts "Subject to"?

23 Q. Correct. We got it up on the board
24 there.

25 A. Oh, yeah. Thank you.

1 Q. It goes on to say towards the end of
2 that first line, it says, "HBC responds that
3 though it distributes Schedule III opioids that
4 were reclassified as Schedule II in 2014, it only
5 distributed such opioids during the period that
6 they were classified as Schedule III opioids."

7 Do you see that?

8 A. Yes.

9 Q. As far as having a system -- as far as
10 the requirement that HBC have a system to disclose
11 suspicious orders, that's irrelevant, correct,
12 whether they were II or III at the time they were
13 distributed?

14 A. Correct.

15 Q. It then goes on to say, "And it has not
16 sold or distributed products to any pharmacies
17 other than Giant Eagle pharmacies."

18 Do you see that?

19 A. Yes.

20 Q. And, again, as far as the requirement
21 that HBC design and operate a system that
22 discloses suspicious orders, that's also
23 irrelevant; correct?

24 A. Yes.

25 Q. It then goes on, and there are five hash

1 marks down below where certain -- it looks like it
2 gives a Bates range, and then it describes a date
3 range for a policy that it's directing us to.

4 Do you see that?

5 A. Yes.

6 Q. Did you have anything to do with pulling
7 these policies and procedures that are identified
8 here?

9 A. Physically gathering them, is that your
10 question?

11 Q. Yeah.

12 A. I didn't specifically gather them, no.

13 Q. Did you point anybody in the direction
14 of where to find these?

15 A. Certainly we got the right subject
16 matter experts to point them in the direction,
17 yes.

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[REDACTED]

Q. That's fair. We talked earlier about
you had a duty to prepare for the deposition
today; correct?

A. Yes.

Q. You took that duty seriously?

A. Absolutely.

Q. You made a good faith effort to be able
to come in here and be prepared to testify and be
prepared to answer all the questions that you were
supposed to be prepared to answer; correct?

A. Of course.

Q. And you spent 40 to 50 hours getting
ready for this?

A. Yes.

Q. You talked to different subject matter

1 experts within Giant Eagle or HBC about the topics
2 that you needed to testify on today?

3 A. Yes.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

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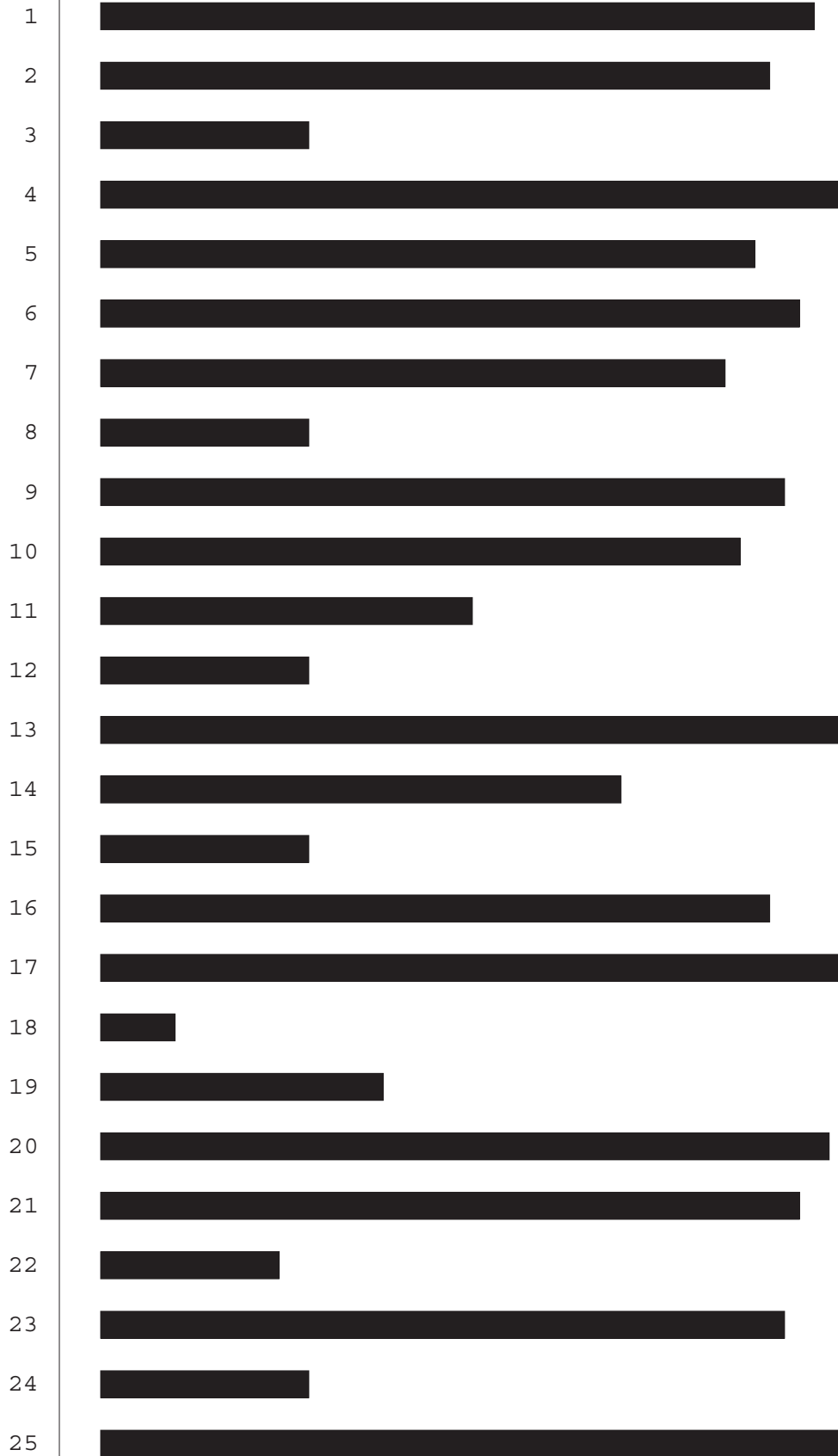
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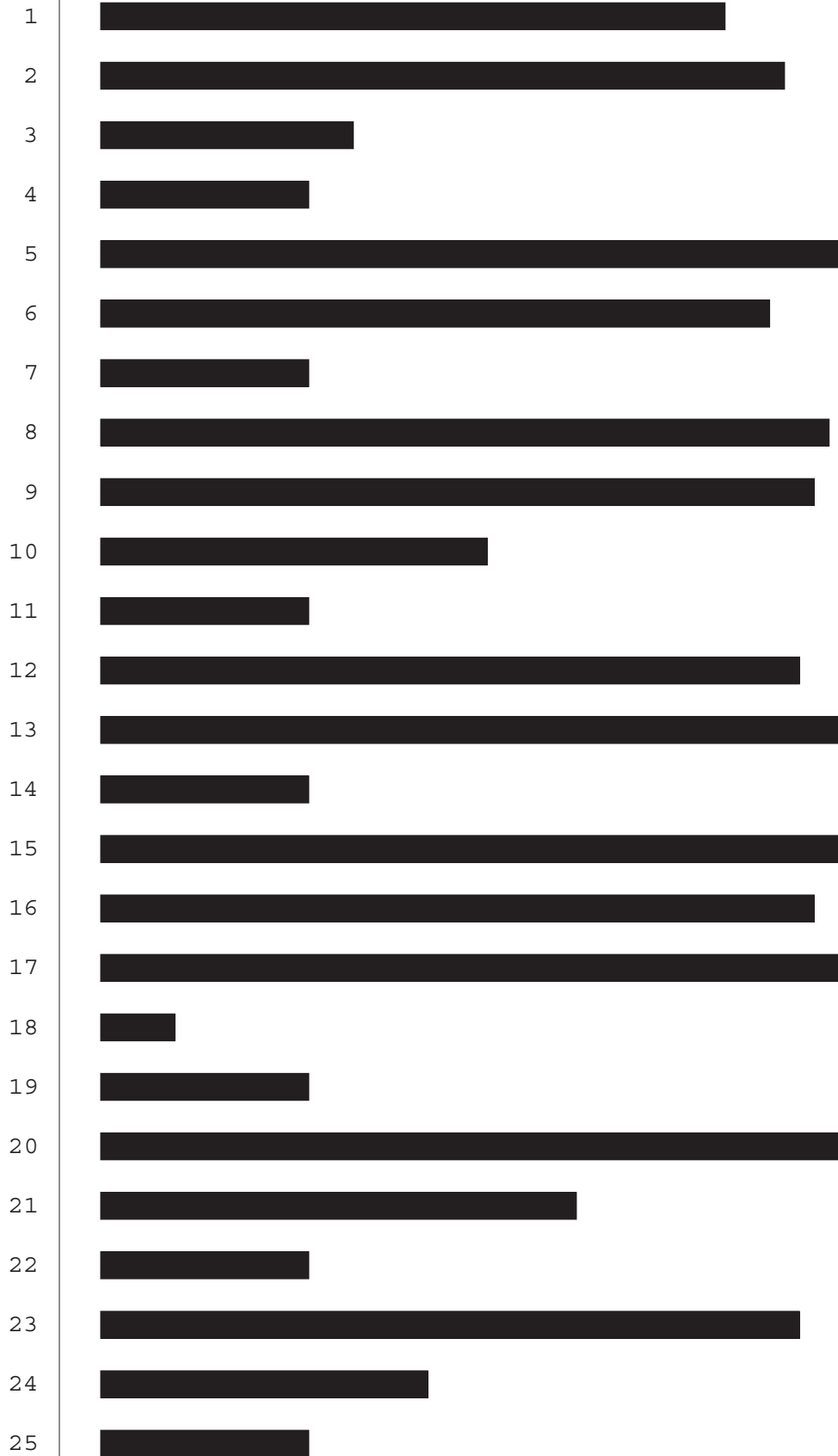




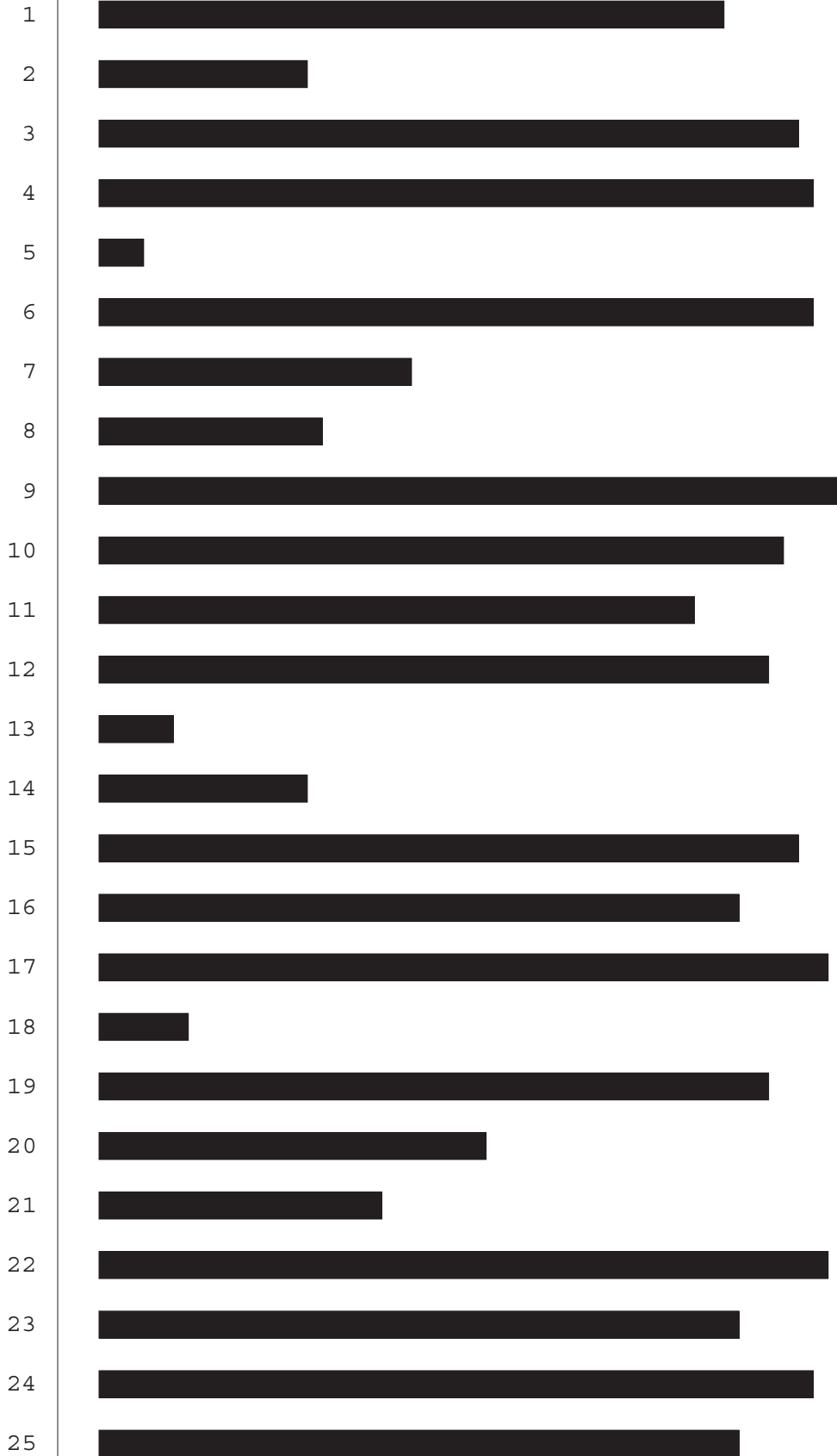


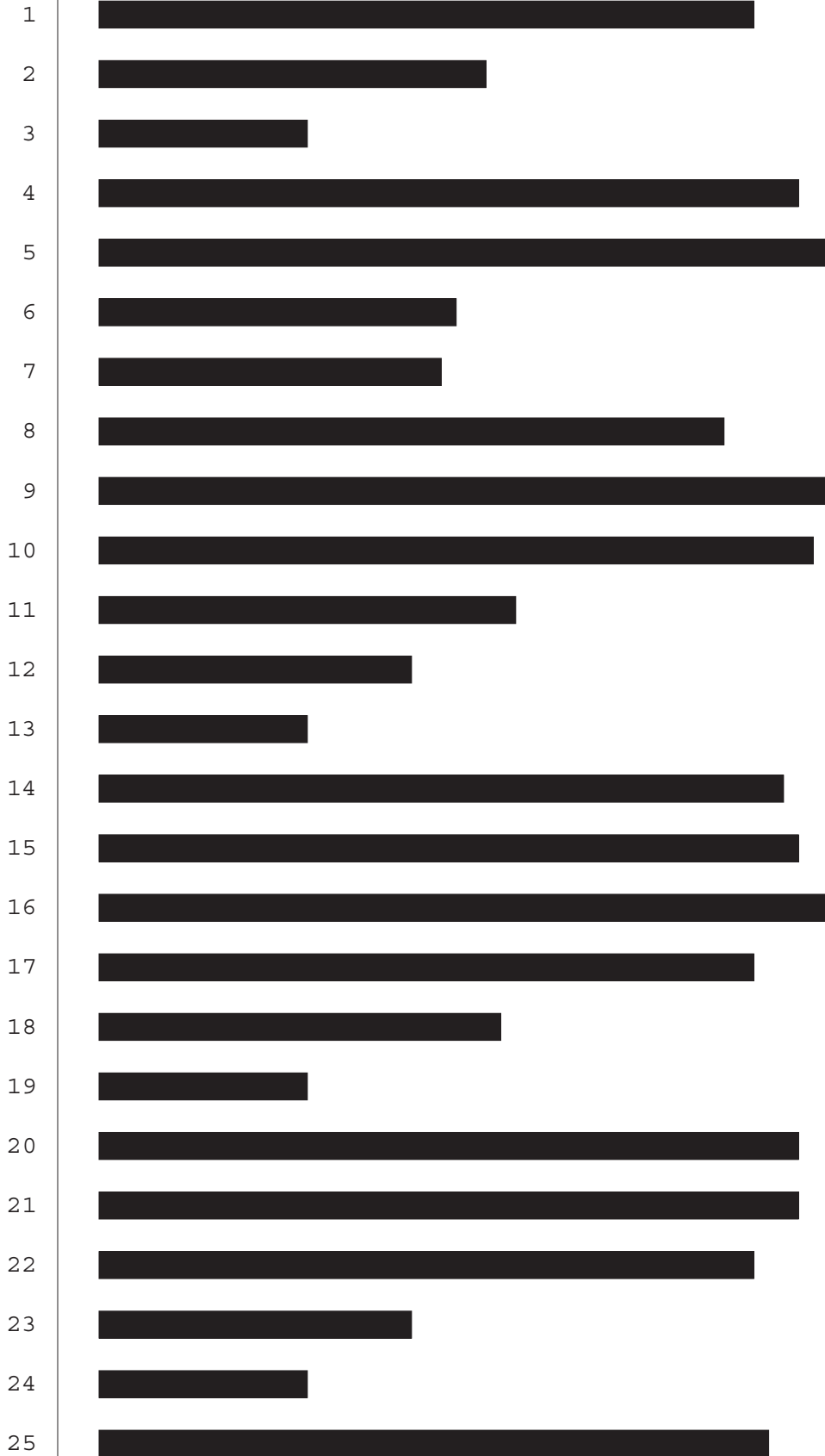


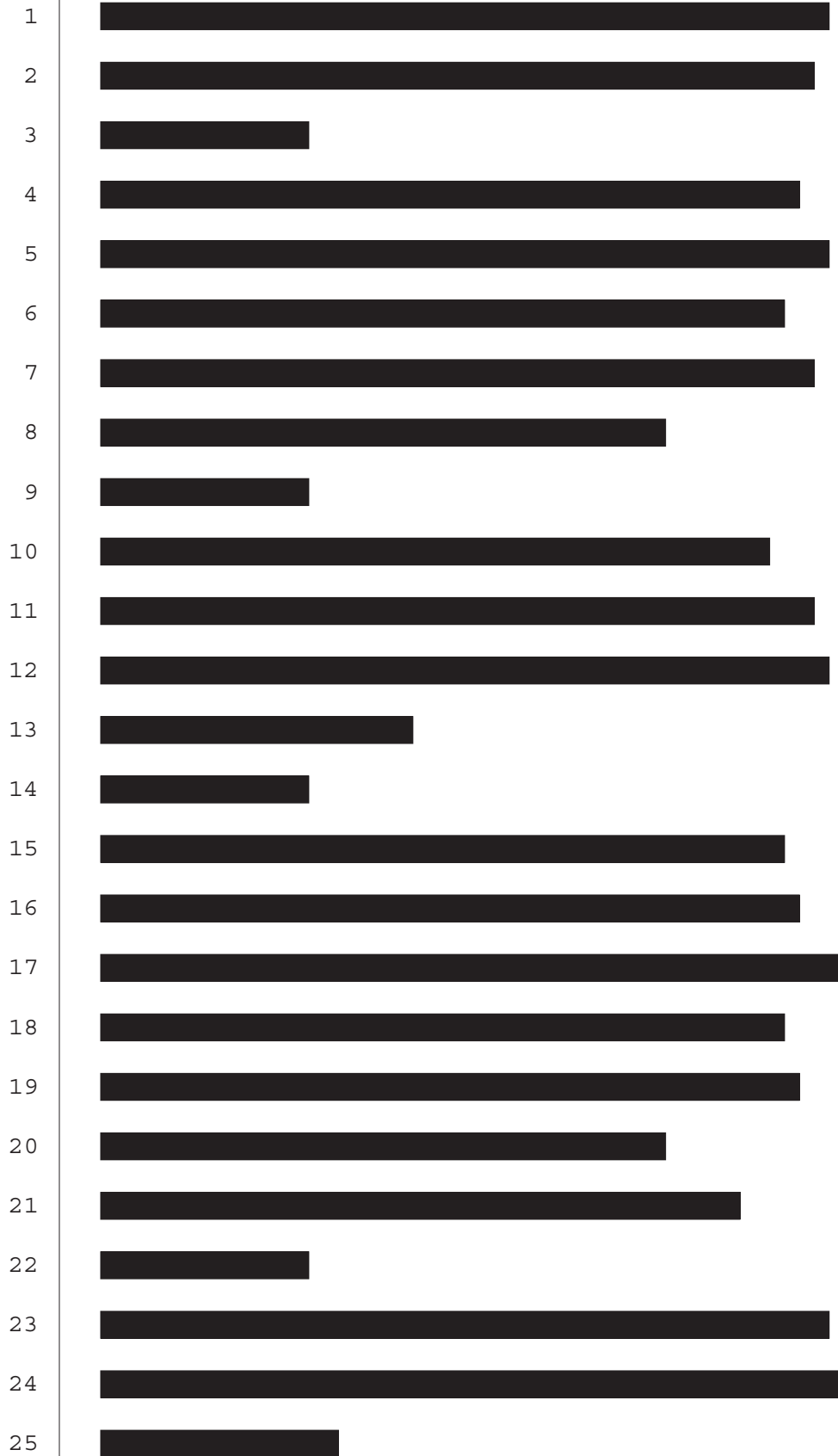








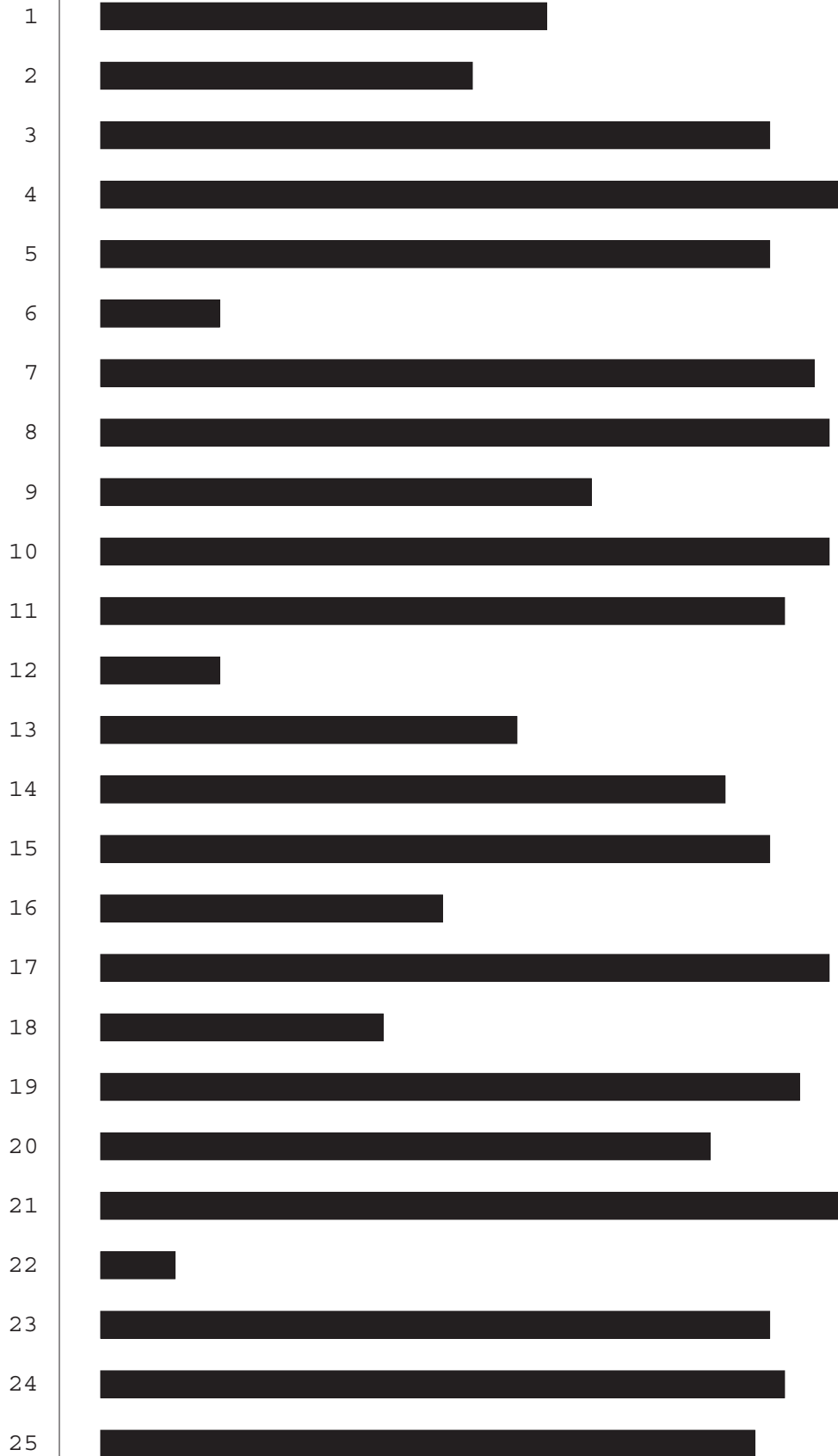








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1 locations, and it could identify deviations from
2 those patterns.

3 Q. How frequently were audits performed?

4 A. Daily.

5 Q. What was the purpose of an audit?

6 A. To ensure the safety and security of the
7 drug product. And, again, in that closed system
8 we talked about earlier, to make sure the product
9 was not diverted and going to its intended
10 recipient.

11 Q. Your testimony is that from
12 November 2009 until the end of Octoberish of 2014,
13 that HBC performed daily audits of the warehouse?

14 A. Daily audits of the counts in the
15 warehouse, yes.

16 Q. And the purpose of the counts in the
17 warehouse was to make sure that everything that
18 was supposed to be in the warehouse was actually
19 there?

20 A. Um-hum, yes.

21 Q. You also mentioned that the warehouse
22 was aware of ordering patterns I think is how you
23 said it from the Giant Eagle pharmacies?

24 A. Um-hum.

25 Q. Yes?

1 A. Yes. Sorry, yes.

2 Q. Who at the warehouse was aware of the
3 ordering patterns?

4 A. So the warehouse had a superintendent of
5 the warehouse. There was specialized, highly
6 trained individuals that worked the controlled
7 substance cage that were the same folks that
8 picked the orders day in and day out.

9 Q. From 2009 until October 2014, was there
10 one superintendent of the warehouse, or were there
11 multiple?

12 A. I believe there was one.

13 Q. And who was that?

14 A. Walter Durr.

15 Q. So you said below Walter, there would
16 have been I think what you referred to as pickers?

17 A. Folks who would fulfill the orders, yes.

18 Q. In laymen's terms, can you describe to
19 me what a picker does?

20 A. Sure. An order comes in. And for
21 whatever product they need to get, they go to the
22 shelf, the particular shelf in the warehouse, and
23 they pick the order.

24 Q. Is it as simple as walking to a shelf
25 and there's a bottle of pills on the shelf, and

1 they pick up the bottle? Break it down for me,
2 please.

3 A. There's a system certainly that there's
4 an order well that generates what each store needs
5 or has requested. And then there's assistance, a
6 device that they -- I don't know the exact name
7 for it, but there's certainly a warehouse
8 management system that they use. And it's
9 different slotting in the warehouse and they know
10 which slot to go to and how many to pick.

11 Q. And then what? They drop it in the tote
12 and put it on a truck?

13 A. Yes.

14 Q. And approximately -- let me back up.

15 How many different warehouses did HBC have
16 that were responsible for distributing Schedule
17 III narcotics?

18 A. There's only one warehouse.

19 Q. And what's the address for that
20 warehouse, for HBC's warehouse?

21 A. I can't give you the exact -- I don't
22 know the exact address.

23 Q. You know do the name of the road?

24 A. No.

25 Q. Approximately how many pickers would

1 have been working under Walter Durr in the
2 warehouse?

3 A. My understanding is three to four.

4 Q. And do you know if it was the same three
5 or four people during the lifetime of HBC serving
6 as a distributor of hydrocodone combination
7 products?

8 A. I don't know if it was the same all the
9 way throughout.

10 Q. Who were those people?

11 A. I don't know their names.

12 Q. Are any of them still that?

13 A. The warehouse is no longer there
14 anymore, so no.

15 Q. Did any of those people transfer over to
16 the Giant Eagle RX distribution center?

17 A. I don't know.

18 Q. Anybody else who -- I think my original
19 question was who would have been aware these
20 patterns of shipments, and you told me Mr. Durr.
21 Then you told me the pickers as well as; correct?

22 Anybody else that would have been aware of
23 the patterns of shipments to Giant Eagle
24 pharmacies?

25 A. From the warehouse is your question?

1 Q. This is all getting back to
2 identification of suspicious orders. So my
3 question is: From HBC who had that obligation to
4 identify suspicious orders? And I think you've
5 identified Mr. Durr and these pickers. But if I'm
6 missing somebody, I want you to tell me.

7 A. So in our suspicious orders would have
8 been identified certainly from the warehouse,
9 certainly folks in corporate that were -- from the
10 procurement team buying into the warehouse. They
11 would know if there's any spike in pattern of
12 product being demanded to be shipped to the
13 warehouse, et cetera.

14 It's not just the warehouse. It's also the
15 folks that do the procurement of these products as
16 well would identify any deviation. If all of a
17 sudden they're buying X and now they're being
18 asked to buy Y, they would identify that.

19 Q. Was there any written list of items that
20 these people in procurement or people like
21 Mr. Durr, the superintendent of the warehouse,
22 were supposed to be on the lookout for?

23 A. Not that I could find.

24 Q. Was there any report that was generated
25 on a daily, weekly, monthly, yearly basis,

1 quarterly basis that Mr. Durr or these procurement
2 people could look at to evaluate the pattern of
3 orders?

4 A. I'm sorry. Can you ask that again?

5 Q. What I'm asking about is whether or not
6 there was any report that was generated daily or
7 weekly or monthly or quarterly or annually that
8 was kind of on a set basis distributed to anybody,
9 whether it's Mr. Durr, whether it's these people
10 from procurement, whether it's the pickers, to
11 where they can have an opportunity to look at and
12 review the pattern of orders going to each of the
13 different pharmacies.

14 A. Not that I could find specifically, but
15 certainly from the procurement side, et cetera,
16 there's reports of what they're buying and
17 selling, sure.

18 Q. Explain to me what you mean by the
19 procurement side.

20 A. So from the procurement side, the folks
21 in the warehouse don't do purchasing. There's a
22 group that does purchasing. So those folks that
23 do purchasing would absolutely know what's being
24 bought and what's being sold.

25 Q. And who were those folks from 2009

1 through 2014?

2 A. The specific people I don't know.

3 Q. Are any of them still with the company?

4 A. I don't know the folks that were
5 involved.

6 Q. Was there a list that these folks in the
7 procurement or purchasing office had to be on the
8 lookout for as far as trends or spikes or anything
9 like that that they should flag and bring to
10 somebody's attention?

11 A. So you're asking if there was a specific
12 list that I know of?

13 Q. Sure.

14 A. Not that I know of that I was able to
15 find.

16 Q. Are you aware of -- let me back up and
17 ask you this: Who did you talk to within HBC or
18 Giant Eagle to find out about this policy that was
19 in place from 2009 through July 2014?

20 A. The policy or the system? I'm sorry.

21 Q. Sorry. You're right. There's not a
22 policy. The system.

23 A. So in the investigative piece, the
24 diligence, Walter was one of the folks that was
25 discussed about what happened during this

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1 system was that the superintendent, the pickers,
2 the procurement folks who would be the only ones
3 with HBC, right, that we just talked about?

4 A. HBC specific, yes.

5 Q. So the pickers, the superintendent and
6 the procurement folks knew what to look for and
7 looked for it. Is that the system that HBC
8 operated to detect suspicious orders?

9 A. The system also included the frontline
10 scrutiny and professional judgment of the
11 pharmacist filling prescriptions as well together
12 as one whole system, yes.

13 Q. But otherwise, that's the system?

14 A. That's the system. And then over time,
15 the system was continually improved upon which
16 later added the thresholds and some IT
17 enhancements, et cetera, yes.

18 Q. But when the first hydrocodone pills
19 started rolling out the door in 2009, the system
20 was that the superintendents, the pickers and the
21 procurement officers knew what to look for and
22 looked for it?

23 MR. BARNES: I'm going to object. You
24 keep misstating what he said in his prior answer.

25 MR. GADDY: Bob, if you want to object,

1 you can object.

2 MR. BARNES: I am.

3 MR. GADDY: Well, limit it to that you
4 don't get to put words --

5 MR. BARNES: Be fair with your question.
6 He told you about an integrated system about five
7 times now, and every time you ask him another
8 question, you leave out a piece of it.

9 BY MR. GADDY:

10 Q. You can answer the question.

11 A. As I stated, the system was an
12 integrated system. Again, we're in a unique
13 situation. We're distributing to our own stores.
14 We know our stores. We know they're -- we have
15 line of sight on every prescription that comes
16 through our doors that we fill, and we fulfill
17 orders to those stores.

18 And we have chain of custody of product all
19 the way from the warehouse to our stores,
20 ultimately to the patients. So what I'm telling
21 you is our system was integrated between store
22 controls, warehouse controls and corporate
23 controls.

24 Q. You agree that the duties and
25 regulations that apply to the stores, the

1 pharmacies, are different than the regulations and
2 duties that apply to the distributor; correct?

3 MR. BARNES: Object to form.

4 THE WITNESS: They have different
5 duties, but they have a duty as well to have the
6 safety and security of controlled substances as
7 does our warehouse.

8 BY MR. GADDY:

9 Q. Sure, but pharmacies -- do pharmacies
10 have a duty to detect suspicious orders?

11 A. By definition, pharmacists' duty are to
12 fill legitimate prescriptions from legitimate
13 prescribers which would then necessitate orders
14 that are fulfilled from our warehouse.

15 Q. You keep using the word "integrated."
16 Tell me what you mean by that.

17 A. It's an integrated system that if you
18 think about it again, the stores are doing their
19 due diligence, making sure they're filling
20 legitimate prescriptions for legitimate needs,
21 right, that generate orders to our warehouse, and
22 we fulfill those orders.

23 So again, we have folks from the warehouse
24 monitoring and having controls, physical controls
25 as well as the controls we discussed. You have

1 the folks on the procurement side with their
2 controls and the pieces that they're buying into
3 the warehouse and selling out of the warehouse, as
4 well as the folks in the store. So that is the
5 system.

6 Q. Did HBC provide any training to Mr. Durr
7 or the pickers that worked underneath him as far
8 as HBC's obligations under the Controlled
9 Substance Act?

10 A. That I don't know.

11 Q. Did HBC provide any training or
12 education to the procurement officers with
13 corporate I think you referred to it as on HBC's
14 obligations under the Controlled Substance Act?

15 A. I don't know.

16 Q. Do you know whether or not there was any
17 list -- you keep kind of saying that these
18 different people in these different roles knew
19 what to look out for.

20 Was there any list of those things that they
21 should be looking out for?

22 A. There's no list that I could find, but I
23 think you established early on in the testimony
24 that these drugs were commonly known as drugs of
25 interest and certainly drugs that we needed to

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1 A. Yes.

2 Q. I think you said that at some point in
3 time, there was a threshold program implemented?

4 A. Yes.

5 Q. When did HBC first start utilizing a
6 threshold program?

7 A. A threshold program with some IT
8 enhancements were put into place roughly in 2013.

9 Q. Do you know what month in 2013 or season
10 even?

11 A. I don't recall exactly in 2013.

12 Q. And were thresholds set for every
13 prescription drug or just controlled substances?

14 A. Controlled substances.

15 Q. And that included Schedule III
16 controlled substances?

17 A. Yes.

18 Q. How were thresholds established? Let me
19 back up before you answer that. I'm making an
20 assumption that threshold is a monthly ordering
21 threshold. Am I wrong on that?

22 A. So the threshold established was using
23 diligence that was ascertained at the time from
24 DEA that a 3X threshold to be established, a
25 monthly threshold, to your point, using 12 months

1 of trailing data, 3X the average for that month.

2 Q. Let me say it back to you to make sure I
3 understand it. This threshold program which was
4 first begun in 2013 set a threshold at 3 times the
5 average amount of that substance that was
6 distributed over the last 12 months?

7 A. So 3X the company average for that
8 chemical. So it was at the GPI level. So the
9 chemical would include all the drugs having that
10 chemical in it, 3X using 12 months of trailing
11 data, 3X the company average for that chemical,
12 that product.

13 Q. So you explained two things there.
14 First of all, it was based on the chemical?

15 A. GPI level, yes.

16 Q. Does that mean that Lortab and Vicodin
17 don't get different thresholds. They're all under
18 the same threshold?

19 A. It's all lumped together as one
20 threshold.

21 Q. Because that's the same combination of
22 hydrocodone and acetaminophen?

23 A. It's looking at the active ingredient,
24 yes.

25 Q. As far as how the threshold is set, if

1 HBC had sold a hundred HCP products over a month
2 for the last 12 months, the threshold for the next
3 month would have been 300; is that fair?

4 A. Well, the threshold was -- yes. Let me
5 just play that back. So it would be 3X again at
6 the GPI level of that GPI using the 12 months
7 worth of data, yes.

8 Q. So months 1 through 12 Giant Eagle
9 pharmacies had ordered 100 hydrocodone combination
10 products?

11 A. All included.

12 Q. Correct. Then in month 13 the threshold
13 would be 300?

14 A. Well, it uses the average of the 12
15 months of data. When the new month comes on, the
16 furthest out drops off. It's a rolling 12 months
17 worth of data, yes.

18 Q. But I have that math right, in month 13,
19 the threshold would be 300 because the prior 12
20 months, the average was 100?

21 A. But again, it uses the last 12 months.
22 So assuming that it was a hundred all those
23 months, it would be 3X which would be 300, yes.

24 Q. You said it was a rolling system. So at
25 the 13th month, instead of HBC distributing a

1 hundred HCPs and it distributed 200, the threshold
2 for the 14th month would be different. It would
3 not be the same 300 because that last month would
4 have affected the average; correct?

5 A. Each datapoint adds to the average. And
6 certainly the reason for that is there's
7 seasonality in our business as well where products
8 change over time, yes. The demand for products
9 change over time.

10 Q. When you say seasonality, do you mean
11 different times of years or do you mean --

12 A. Yes. Different times of year, cough and
13 cold season versus summer months, yes.

14 Q. Is there a hydrocodone combination
15 product season?

16 A. Well, certainly hydrocodone products in
17 cough syrups, it is more prevalent during cough
18 and cold season than it is during summer months.

19 Q. I think I heard you mention that HBC
20 received guidance from the DEA that a 3 times
21 average was an appropriate threshold.

22 A. What I said is during the due diligence
23 to set the threshold, information was derived from
24 the DEA published websites on a 3X threshold that
25 they used for list chemicals, and that's where our

1 3X number was derived from.

2 Q. You're talking about the chemical
3 handler's manual?

4 A. From what I -- to prepare for this, it
5 was based on written DEA inference on a website or
6 a manual, I'm not sure where it was derived from,
7 but the DEA itself was establishing a 3X
8 threshold, and the team adopted that rationale.

9 Q. Are you testifying that the DEA had
10 suggested a 3X threshold for opioids?

11 A. I'm testifying that the HBC warehouse
12 and the team involved found data that pointed to a
13 3X threshold tier, and that's what they adopted.

14 Q. But for opioids. That's my question.
15 Are you testifying that HBC had information from
16 the DEA that they were approving or ratifying or
17 blessing, whatever verb you want to use, a 3X
18 threshold in 2013 for opioids?

19 A. No. That is not what I'm saying.

20 Q. Then help me understand.

21 A. What I'm saying is in the diligence to
22 set the threshold, Giant Eagle inferred from
23 information that they gleaned from the website, a
24 manual, whatever it was, that established a 3X
25 threshold is where they want -- the DEA was -- the

1 DEA over the years has not been clear about what
2 their expectations were of any threshold.

3 So it left each registrant to set whatever
4 parameters and controls that they deemed
5 appropriate. So our team used whatever they could
6 find that was reasonably available and reasonable
7 to set our thresholds.

8 Q. The DEA never told HBC that a three
9 times average was appropriate; correct?

10 A. Directly, no, never.

11 Q. Did DEA indirectly tell HBC that a three
12 times average was appropriate?

13 A. What I'm saying is the HBC set its
14 threshold based on information that it gleaned
15 from a DEA -- just like you showed me earlier, a
16 page from the DEA website. There was information
17 that they used from DEA and inferred to use a 3X
18 threshold.

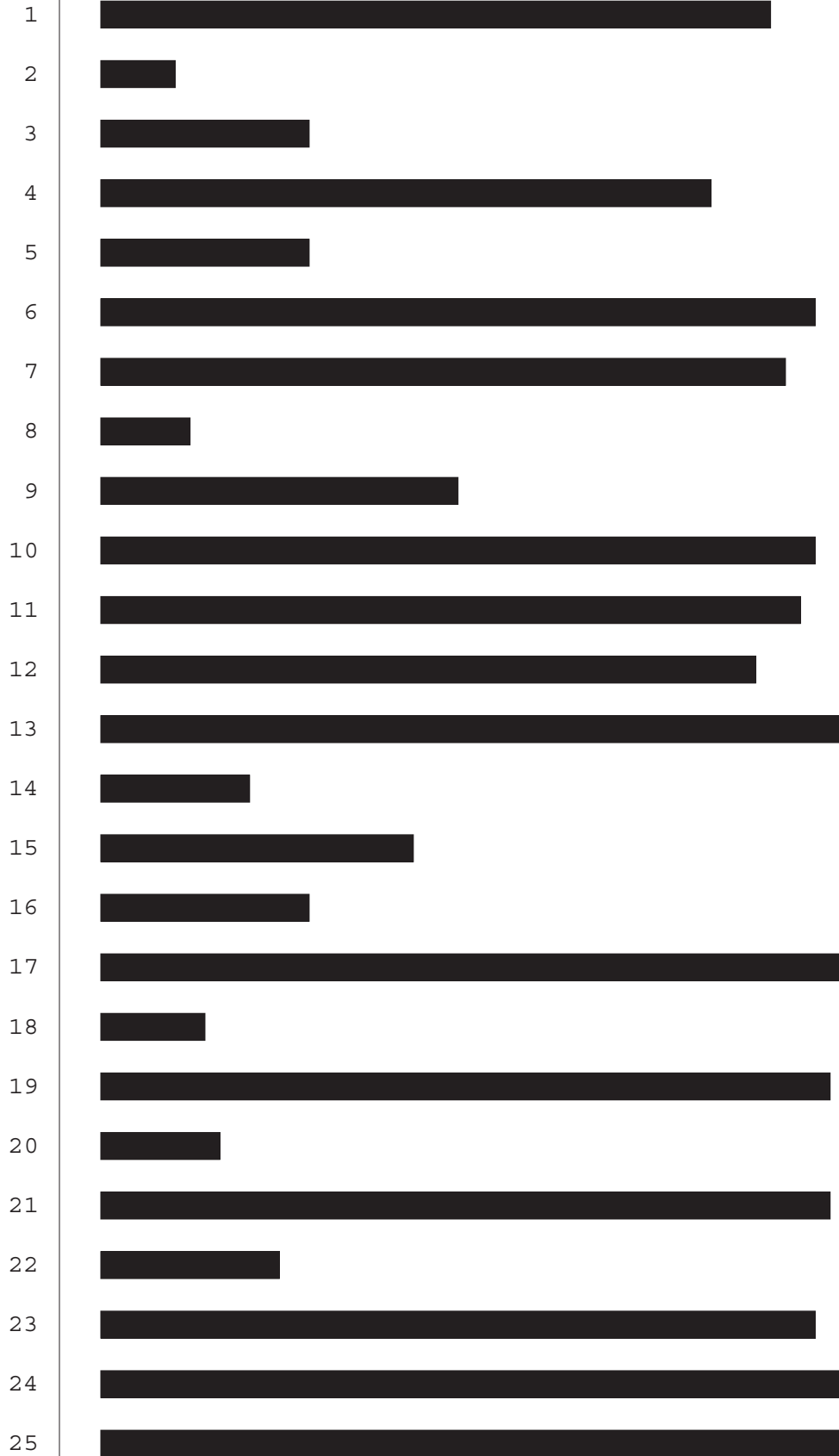
19 HBC set the threshold, but it wasn't just
20 some arbitrary number they picked. There was
21 information they used to get to a 3X threshold.

22 Q. I'll show you what I'll mark as No. 13.

23 (HBC-Tsipakis Exhibit 13 was marked.)

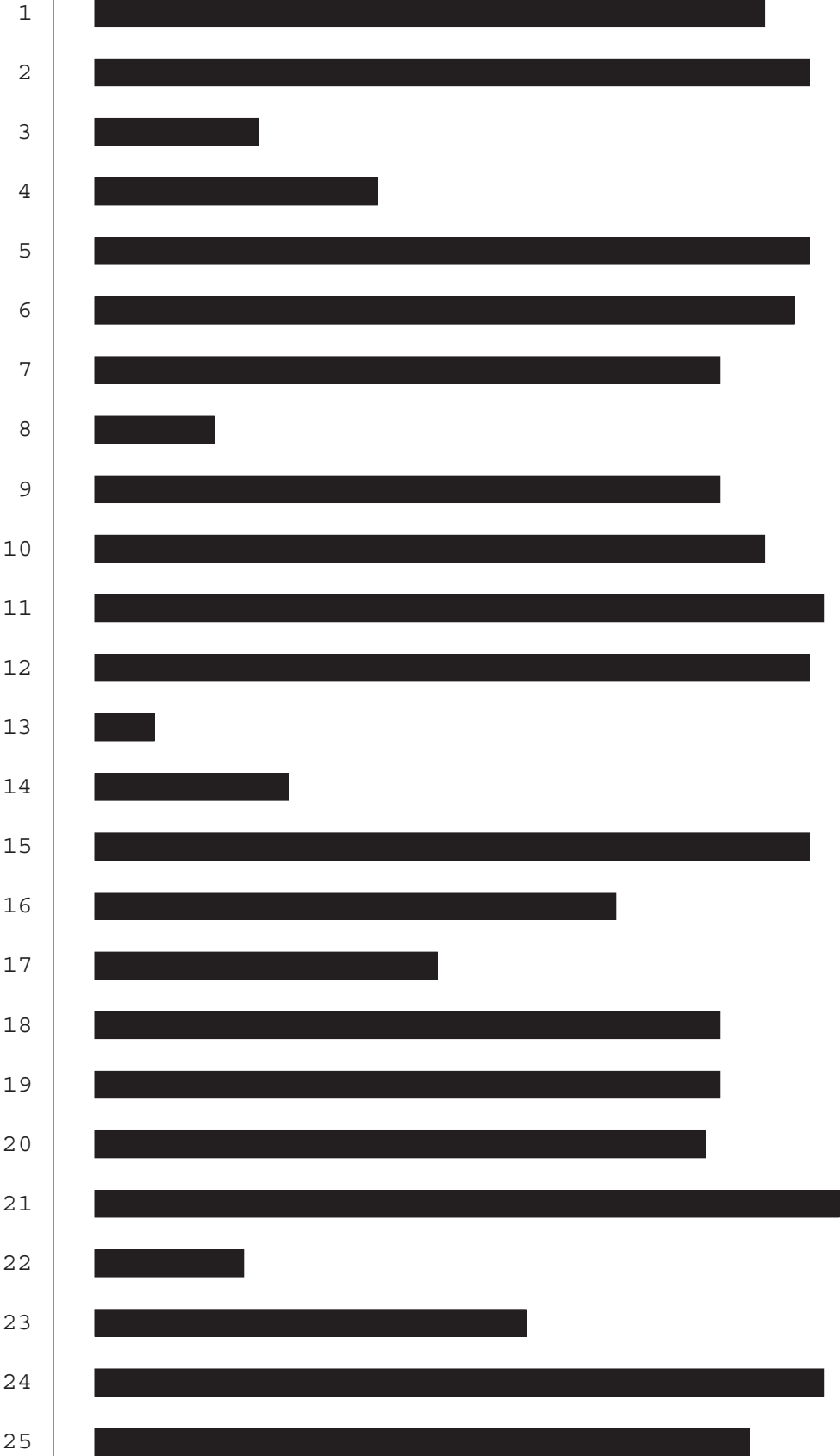
24 BY MR. GADDY:

25 Q. I'm showing you a June 2, 2012 letter



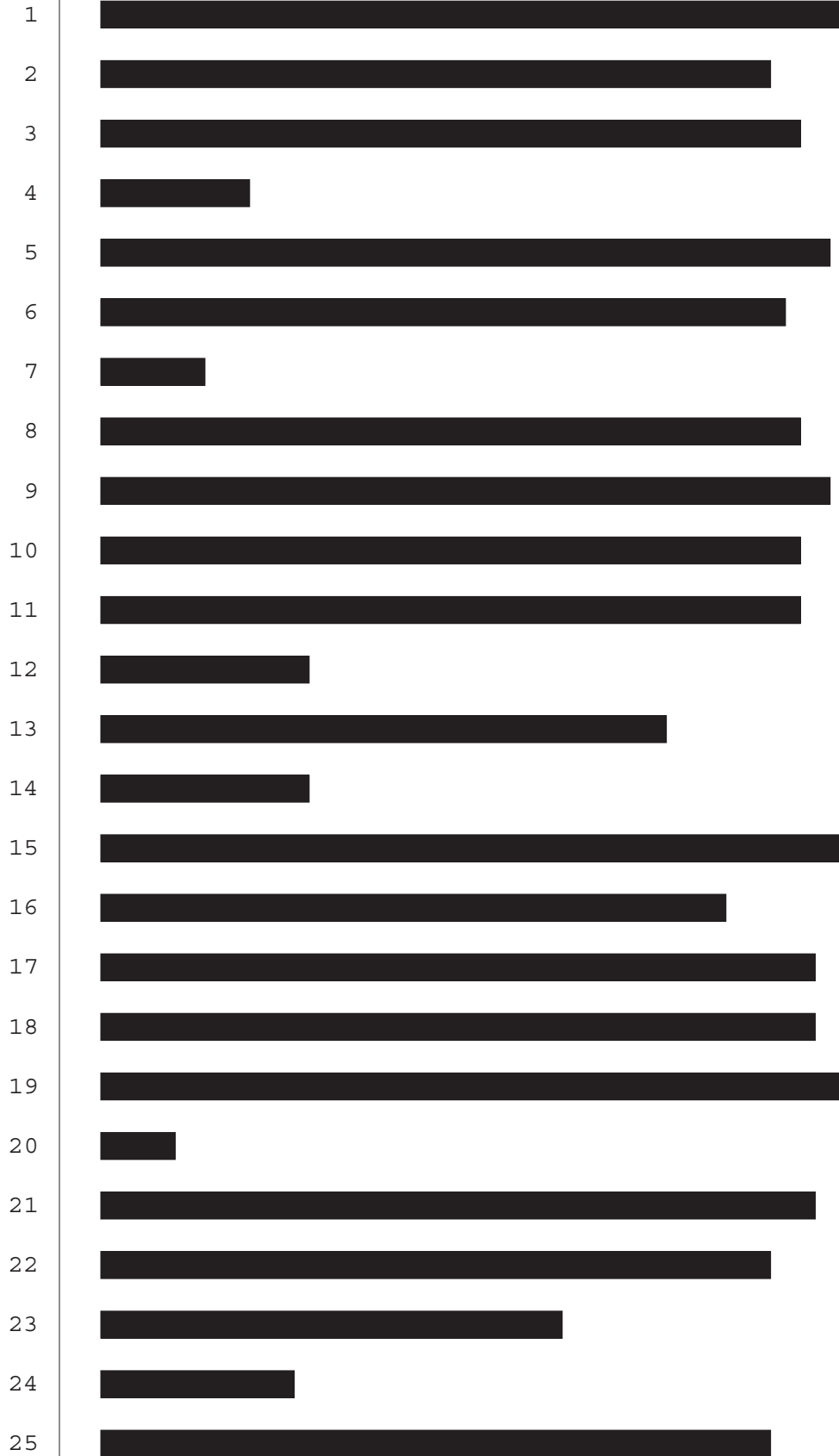


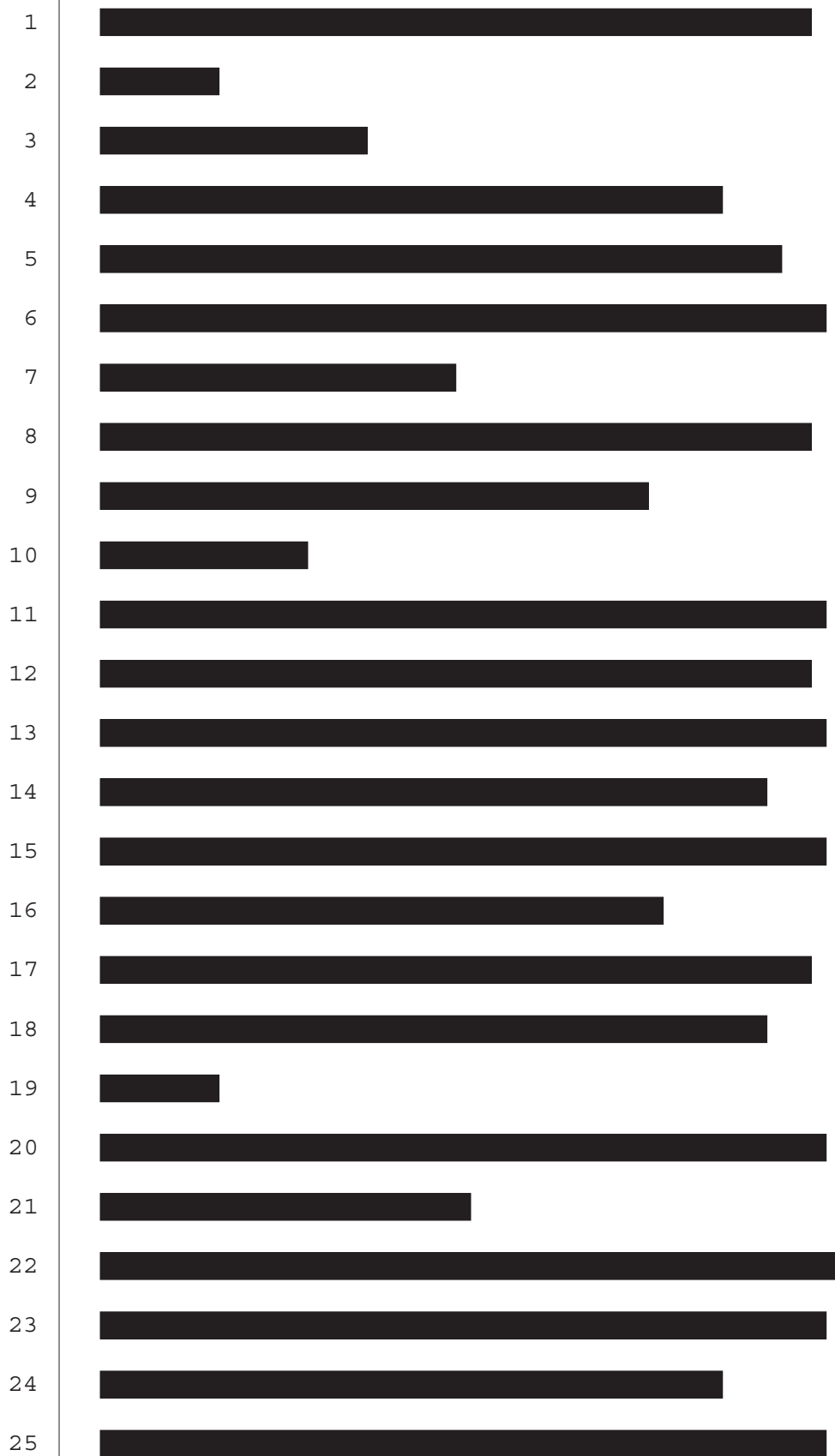


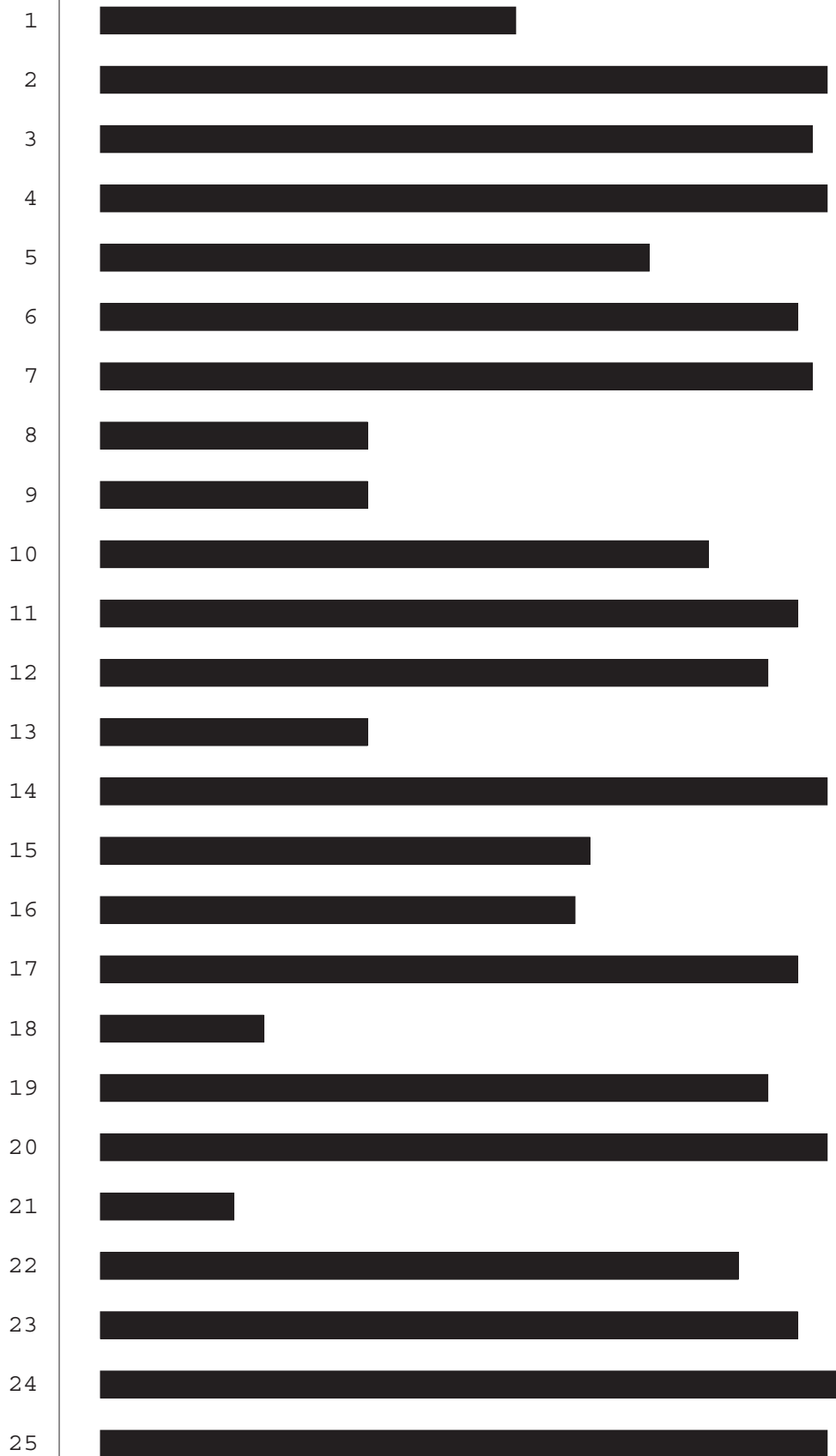








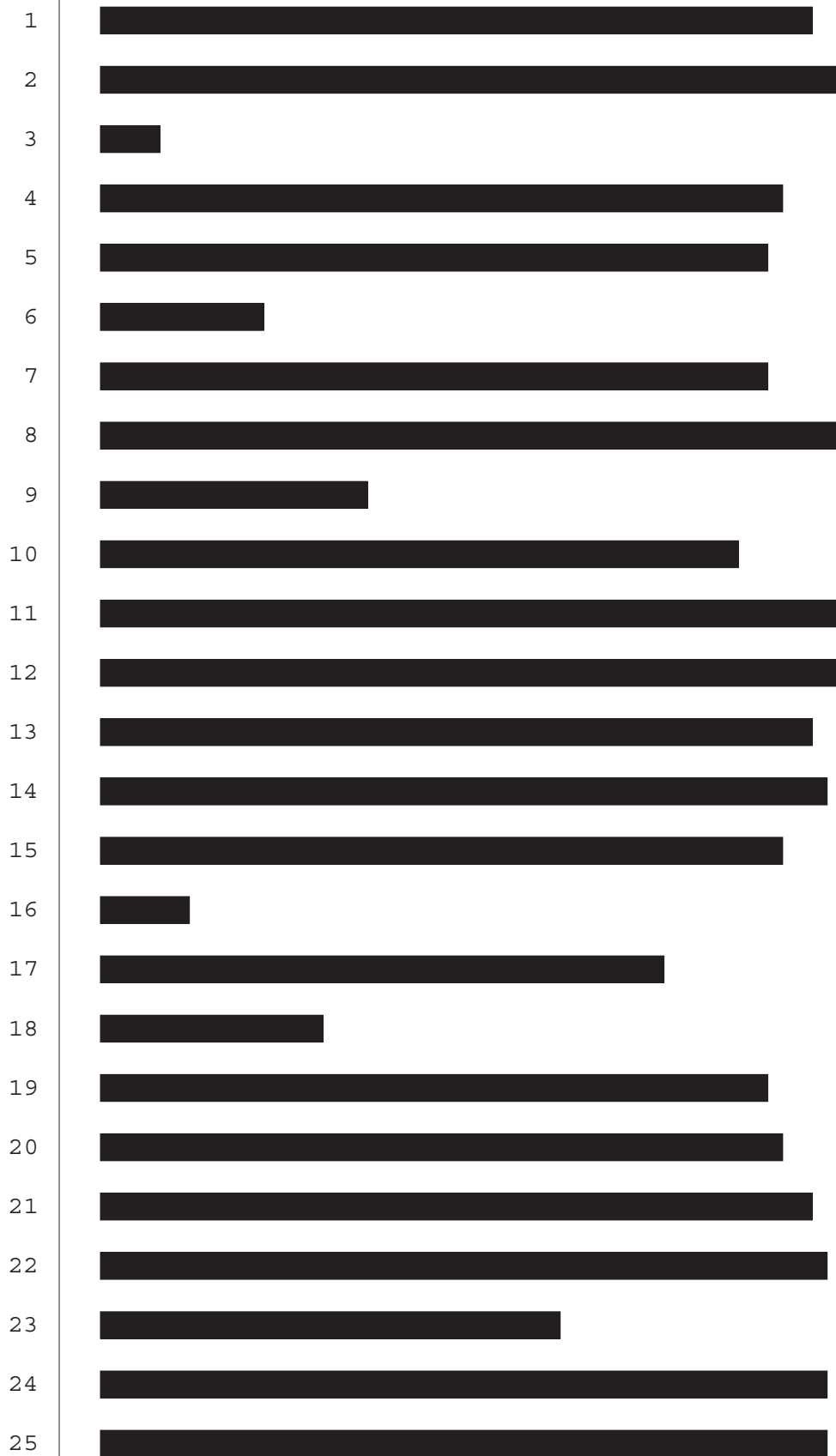




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1 are subject to; correct?

2 A. I never said that we operated nor
3 followed the law any differently with our
4 responsibilities.

5 Q. I'm on No. 14. I'm going to show you
6 HBC 1032 which we're going to mark as Exhibit
7 No. 14 for today's deposition.

8 Is this an example of one of the threshold
9 reports that we've been talking about?

10 (HBC-Tsipakis Exhibit 14 was marked.)

11 THE WITNESS: In this format, I'm having
12 trouble figuring out what this is.

13 BY MR. GADDY:

14 Q. I'm giving it to you how it was given to
15 me. I was hoping you could kind of explain some
16 of it to me.

17 Do you recognize this as being one of the
18 threshold reports that we've been talking about?

19 A. I'm having difficulty. I'm trying to
20 understand what I'm looking at.

21 Q. Let's see if we can walk through it a
22 little bit. It looks like it was maybe a
23 spreadsheet. It looks like the left-hand column
24 is the pharmacy number?

25 A. Yes.

1 Q. Those numbers going down underneath
2 there, do those correspond with different Giant
3 Eagle stores?

4 A. It appears so, yes.

5 Q. I want to skip the vendor for a minute.
6 But the next one indicates month key, and it looks
7 like October of 2016 is the date of this report?

8 A. Yes.

9 Q. I couldn't see any way from this report
10 to determine when in October this report was run,
11 whether it was run on the 1st or the 15th or the
12 31st. Do you know if there's a way to determine
13 that?

14 A. Based on what I'm looking at, I agree.
15 I can't tell.

16 Q. The next column says, I guess, it's GPI
17 10?

18 A. Yes.

19 Q. Can you explain what that is?

20 A. Sure. The GPI is the GPI class of the
21 drug. I don't know which GPI -- this one, based
22 on what I'm reading here, I'm assuming this is
23 oxycodone, the GPI 10 for oxycodone.

24 Q. And you were just talking about the top
25 one on the list?

1 A. Yes.

2 Q. And the next one says it looks like the
3 Total Shipped Quantity. Do you see that?

4 A. Yes.

5 Q. And it lists the total shipped quantity
6 as 4500. And the next column says Threshold
7 Quantity. Do you see that?

8 A. Yes.

9 Q. And the threshold was 4200, so less than
10 the 4500; correct?

11 A. From what I'm reading, yes.

12 Q. And then at the next column, it has the
13 Product Name?

14 A. Yes.

15 Q. And then, finally, the column on the
16 right is the Schedule Number, and oxycodone
17 obviously is a Schedule II drug; correct?

18 A. Yes.

19 Q. Are you expecting there to be any
20 additional information on one of these threshold
21 reports?

22 A. Again, I haven't seen this in this
23 format. I'm sorry. I just really don't know what
24 I'm looking at here. I know that on the report
25 that the team would generate, it looked different

1 than this output. I read the columns with you
2 here, but I just don't know.

3 Q. Again, obviously, I don't work for Giant
4 Eagle or HBC, never have. I've never seen one of
5 your internally-generated threshold reports. This
6 is what was produced to us, and I was given a lot
7 of these. So I'm trying to figure out if there's
8 something else I should be looking at and there's
9 something else that maybe should be provided that
10 can give me a better understanding of the
11 threshold reports.

12 We just went through the information that's
13 included on what I was provided. Is there any
14 additional information on the reports that you're
15 used to looking at?

16 A. I don't know any other information.
17 Again I'd be speculating. It shows stores which I
18 recognize store numbers. It's showing total
19 shipped, threshold quantity, product name and
20 everything we just discussed. As far as how this
21 report was used and what native format it is -- I
22 do know things were things provided to you in
23 native format because some things were in the
24 system and they had do screenshots.

25 I honestly can't tell you exactly what this

1 is or how this was being used.

2 Q. But if you were to go back to your
3 office and asked to see the threshold report for
4 October 2016, do you think that that report would
5 have any additional information than what I have
6 right here in front of me?

7 A. I don't believe so.

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9 [REDACTED]

10 [REDACTED]

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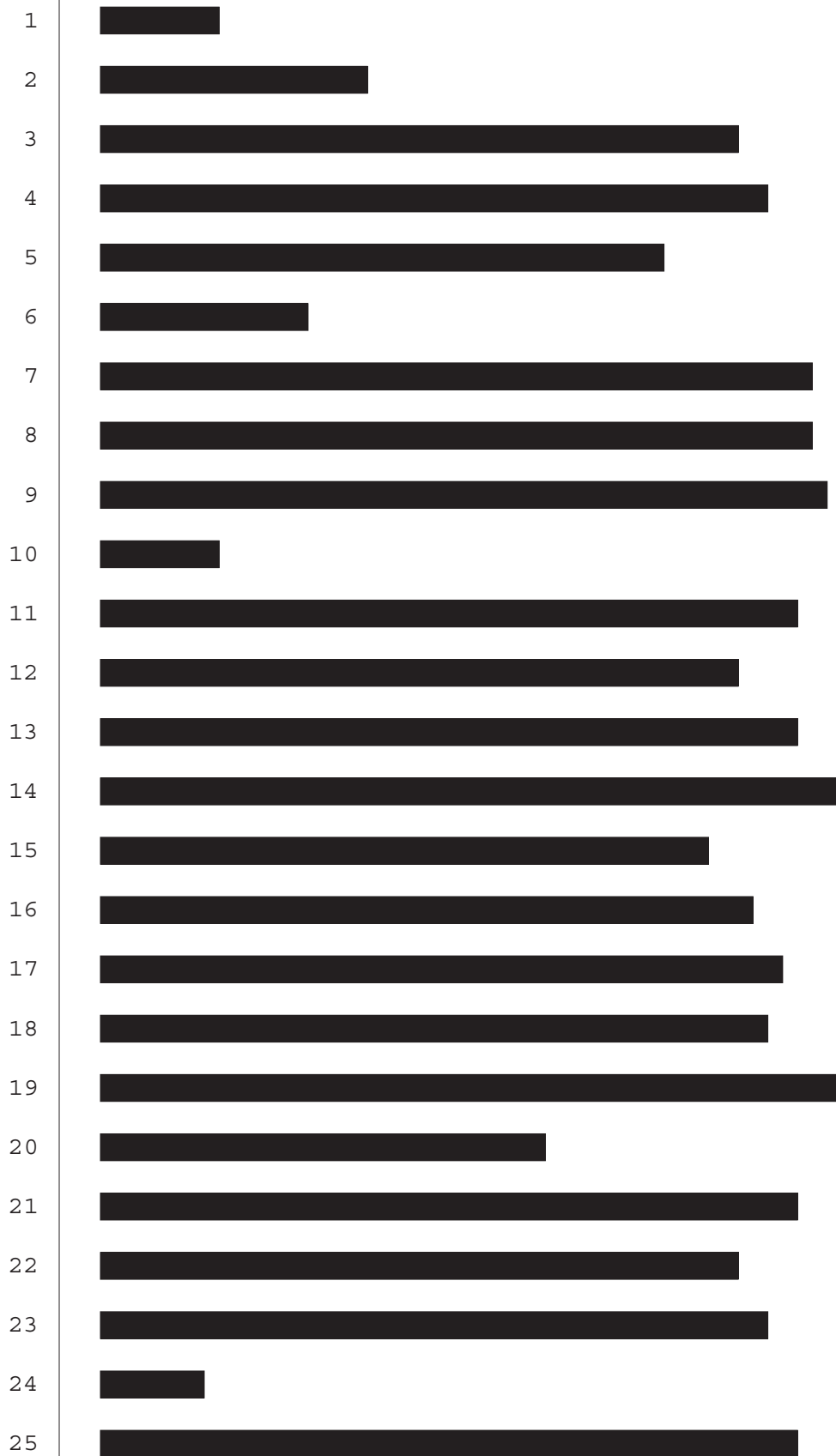
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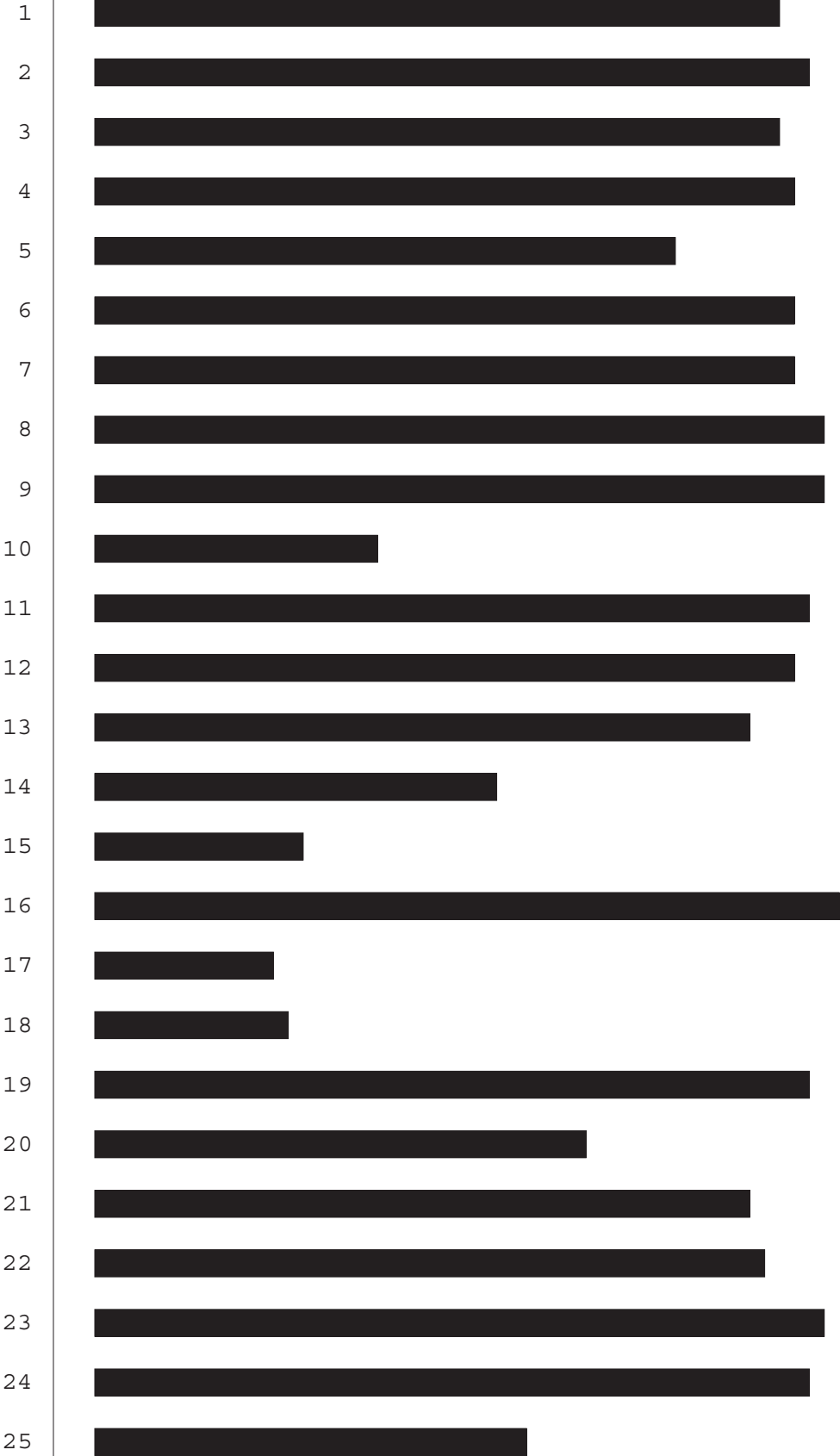
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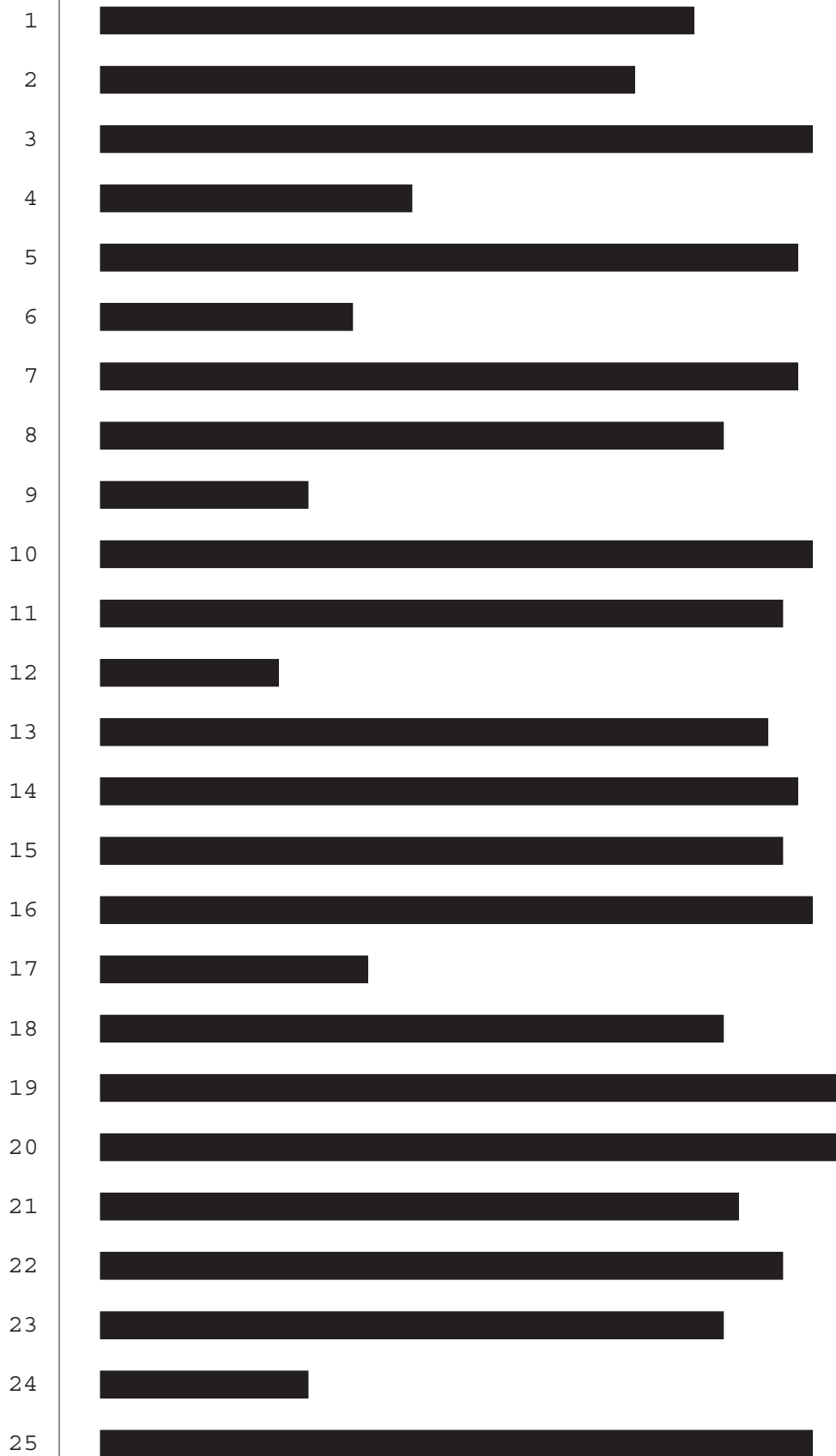
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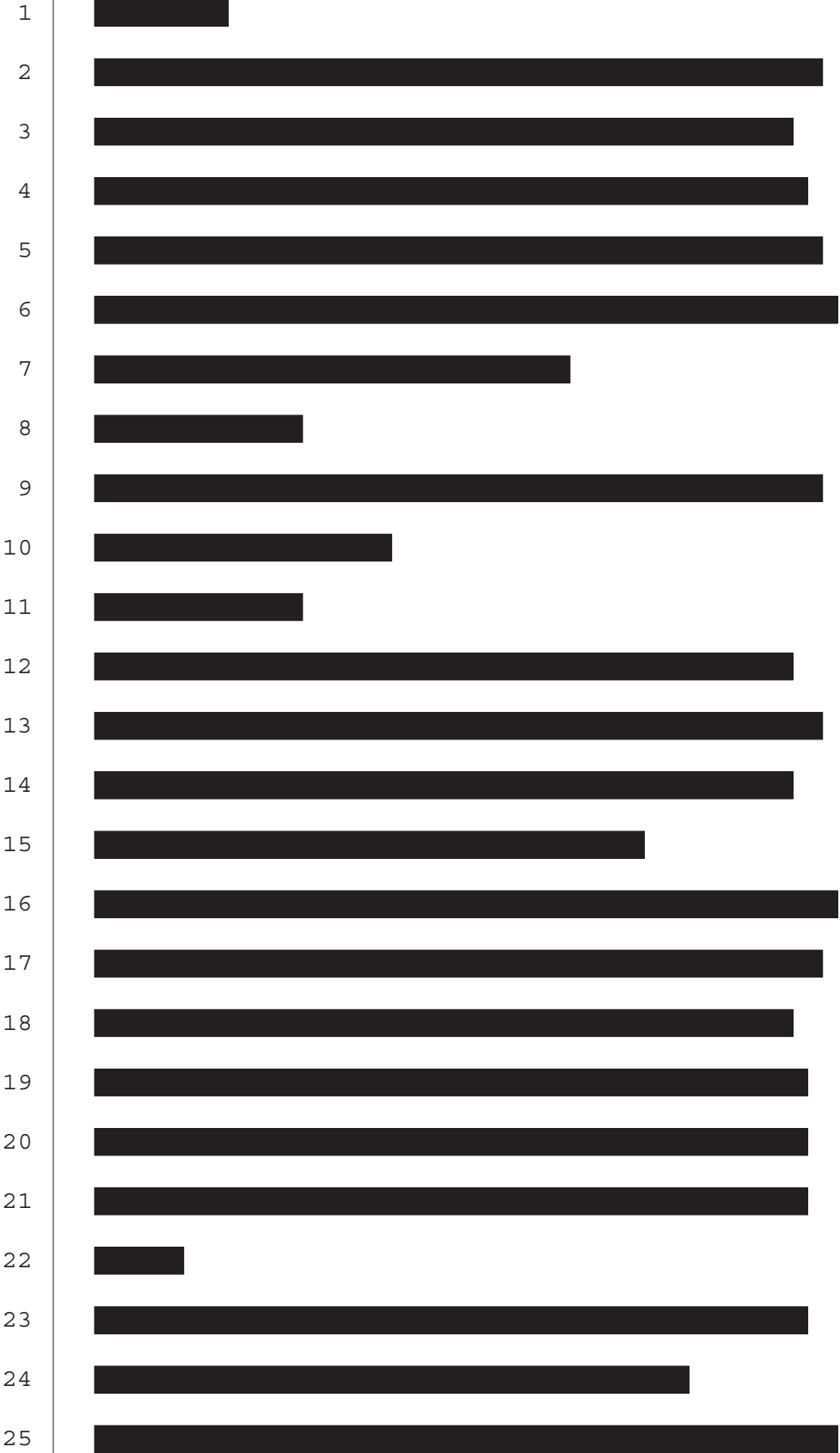


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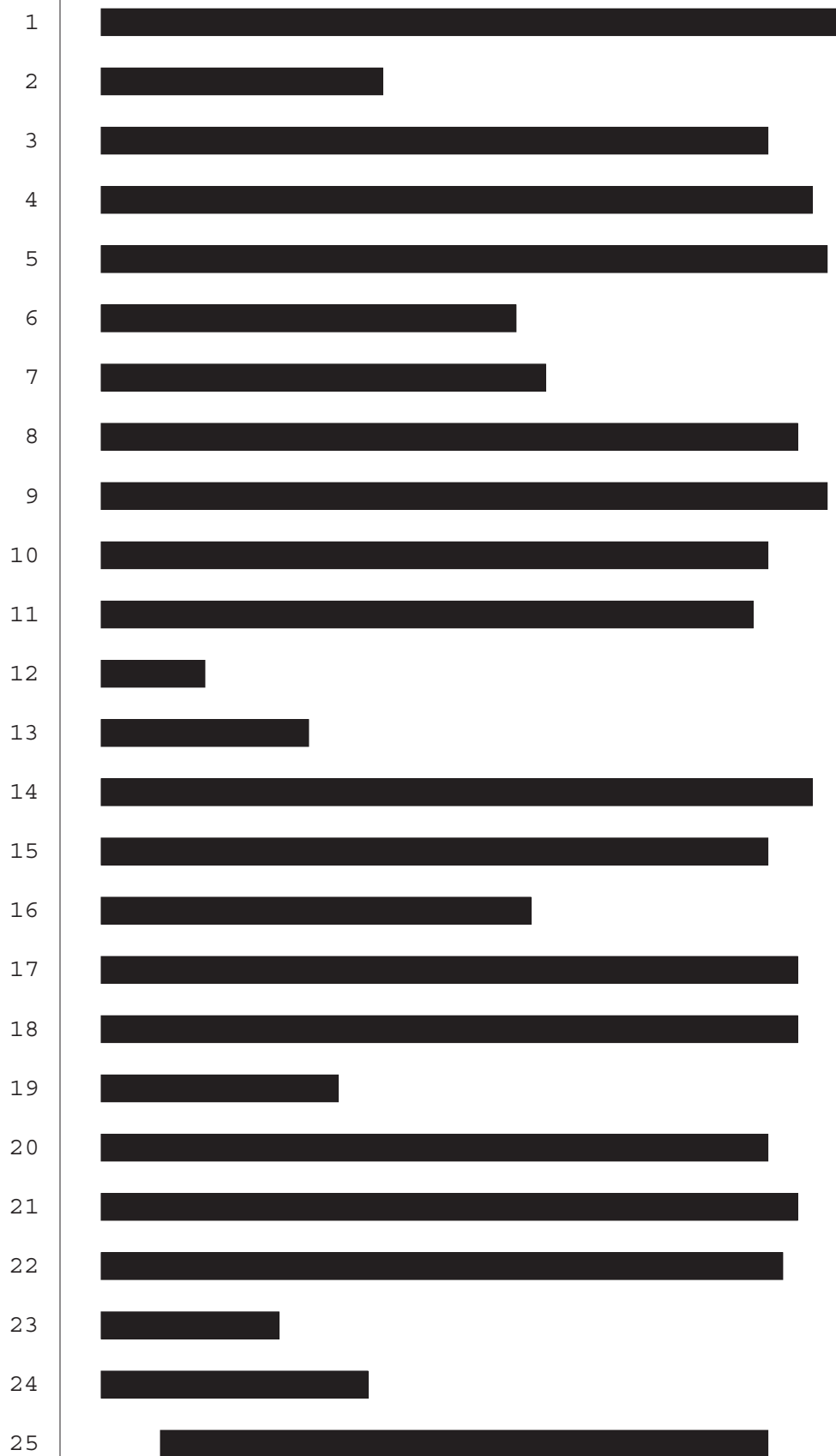








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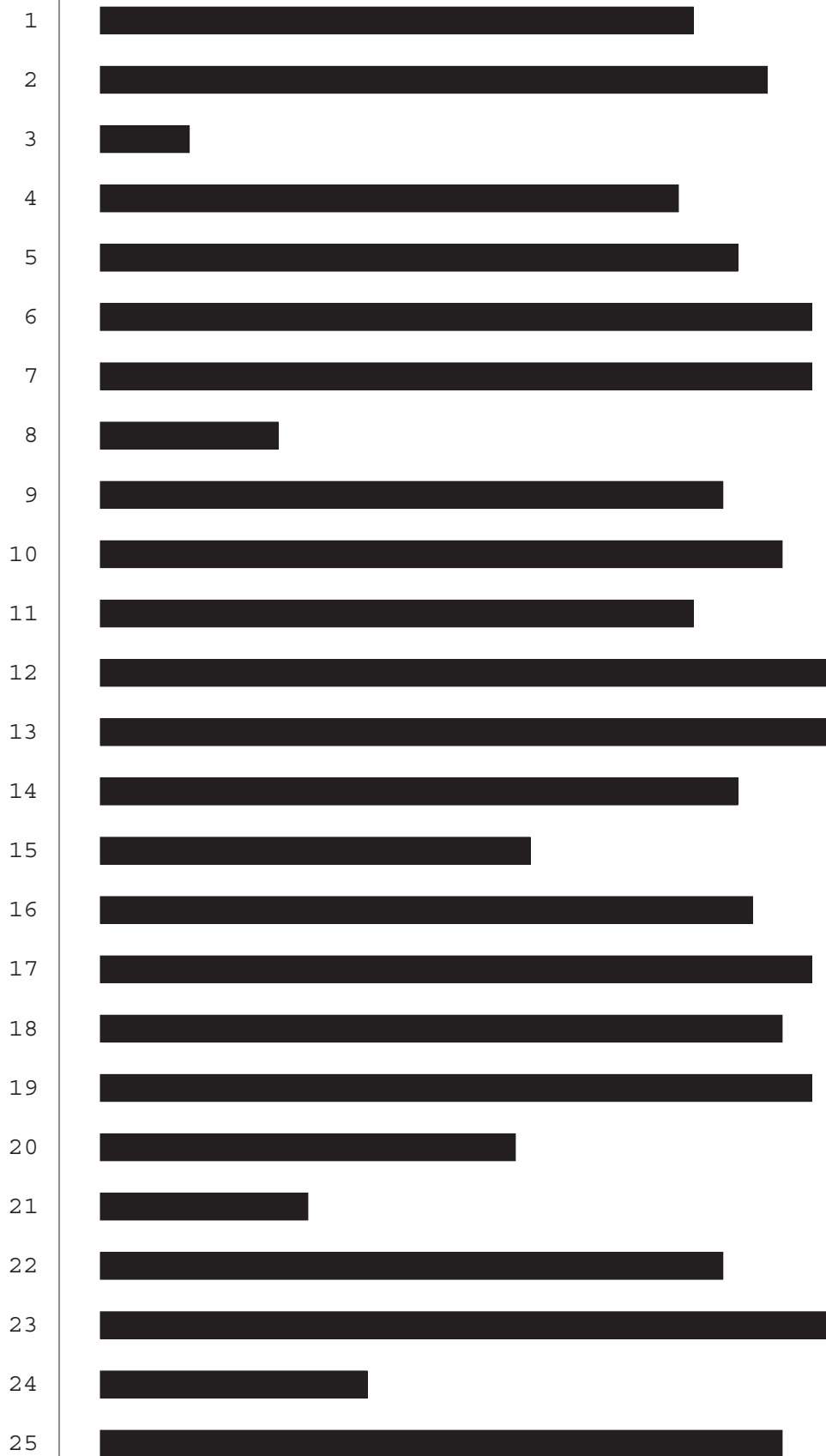


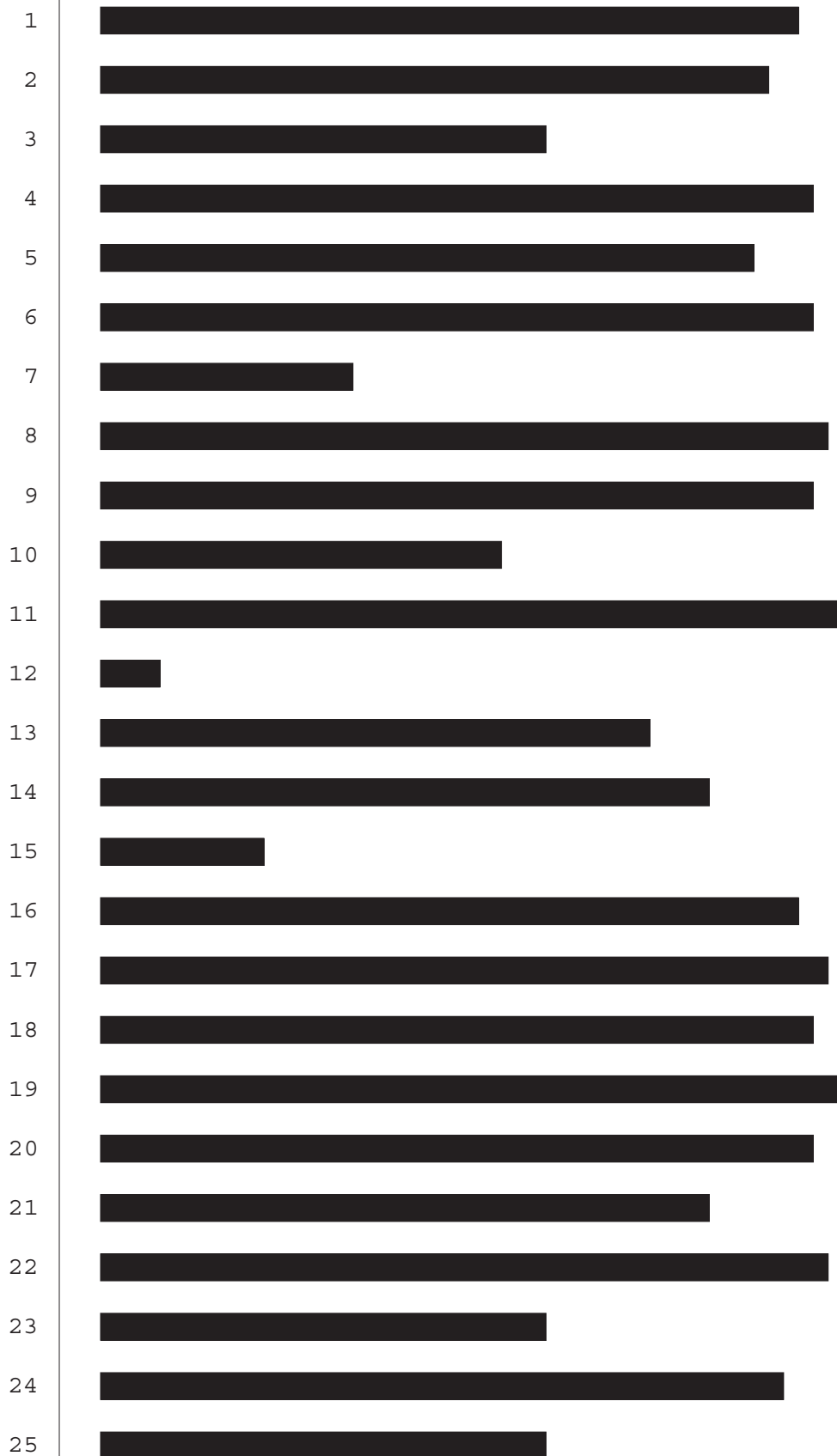


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1 A. I haven't found anything that
2 specifically calls out that something needs to be
3 written down or documented or -- certainly there's
4 an expectation to investigate every one.

5 Q. And I'm not asking you to point me to a
6 piece of paper as we're sitting here right now
7 today, but if I was to ask you can you justify why
8 this order for store 71 of Oxydo, which is a CII,
9 was shipped over threshold and that it wasn't
10 clawed back or it wasn't reported to the DEA,
11 would you have the ability to go and give me an
12 answer to what was done to approve that?

13 A. Let me make sure I understand your
14 question. Can you repeat it one more time,
15 please.

16 Q. Sure. Essentially, what I'm trying to
17 figure out is whether or not HBC or Giant Eagle
18 maintains any type of due diligence files.

19 For example, this order for store 71 for this
20 controlled II substance pops on this report, if
21 you wanted to go back now two years after the fact
22 and see what did we do to justify and clear that
23 order, is that possible?

24 A. I don't know.

25 Q. As you sit here today, is there any

1 requirement or procedure in place to do any
2 maintaining or logging of any type of due
3 diligence or investigatory type efforts to clear
4 or justify orders that were received that may be
5 over thresholds or may be otherwise indicative of
6 diversion?

7 A. Yes. Over time more systems were
8 developed and abilities, yes.

9 Q. When did Giant Eagle or HBC put in place
10 a system that required employees to log or
11 maintain files that explained why particular
12 orders were cleared or not cleared?

13 A. I can say from the diligence I had in
14 early 2017, a system was developed where
15 investigative notes and information could be
16 entered regarding orders that we wanted to look
17 at, orders of interest.

18 Q. Prior to early 2017, HBC nor Giant Eagle
19 had any system that was dedicated to maintain
20 notes, reports or memos that would explain or
21 justify why particular orders were cleared or not
22 cleared?

23 A. We didn't have a repository if that's
24 what you're asking. There were certainly
25 definitive emails to the field, emails to the

1 warehouse, things of sorts that clearly show a
2 diligence of trying to run the ground on why an
3 order happened or what triggered, sure.

4 Q. Can you say that that's the case for
5 every order that ever popped up on one of these
6 reports?

7 A. I can say after reviewing and talking to
8 associates involved and folks that do report to
9 me, that every order that pops up of interest is
10 investigated and either cleared or not.

11 Q. But you can't tell me as you sit here
12 today whether or not there's any documentation to
13 prove or disprove whether or not any or all of
14 those investigations actually happened?

15 A. I can tell you that I don't know that I
16 have specific for each line item on -- well, from
17 2017 on, I can tell you we have a repository that
18 was built. Prior to that, I cannot.

19 Q. That's probably the easiest way to do
20 this. Prior to early 2017, Giant Eagle nor HBC
21 had any repository or location, whether it's
22 physical or digital, to maintain any type of due
23 diligence reports or efforts; correct?

24 A. There was no central repository.
25 Certainly if there was folders or emails or things

1 that were kept -- I've seen some of them, so
2 definitely I know they exist.

3 Q. So fair to say that these orders that
4 popped on these threshold reports that started
5 coming out back in 2013 would lead Giant Eagle or
6 HBC to start to do some type of due diligence; is
7 that correct?

8 A. Yes.

9 Q. From 2009 until 2013, when HBC was
10 distributing hydrocodone combination products,
11 what would lead to HBC doing any type of due
12 diligence on any of the orders that were received
13 from the stores?

14 A. Certainly from as moved on, we improved
15 the processes and continued to add capabilities.
16 Your specific timeframe is what again, please?

17 Q. 2009 until the threshold reports started
18 being generated in 2013.

19 A. So in addition to other controls, one of
20 the mechanisms we would use is the integrated
21 approach I mentioned earlier to disclose
22 suspicious orders to us, which would prompt
23 investigation, similar diligence, no difference in
24 diligence, and running to ground whether an order
25 of interest was suspicious or not.

1 Q. And that integrated approach would
2 involve the superintendent of the warehouse, the
3 pickers at the warehouse and the procurement folks
4 from HBC's side; correct?

5 A. And the stores, yes.

6 Q. Store is not HBC, is it?

7 A. The store is not HBC, but it's all part
8 of the same company, same system. It's part of
9 our system.

10 Q. But it's HBC who has the responsibility
11 to design and operate a system that detects
12 suspicious orders; correct?

13 A. Correct.

14 Q. Can you tell me between -- we can look
15 at that report, and we can -- assuming that in
16 October of 2016 Giant Eagle followed their
17 policies in place, if we estimate that there's 200
18 entries on that report, we could say that there
19 were 200 separate investigations done, due
20 diligence type investigations done in
21 October 2016; would that be fair?

22 A. I can tell you just by looking at some
23 of them and understanding the report better, we
24 have stores that are filling 6000 prescription as
25 week that are averaged against stores that are

1 doing 300 a week. So obviously, if you're doing
2 as a chain-wide average, you're going to have a
3 ton of false positives, which is predominantly a
4 lot of these orders on these reports.

5 Q. Well, isn't that a reason why having a
6 chain-wide average isn't a very good idea?

7 A. Again, it's our attempt to have a system
8 in place. We're not just relying on a threshold.
9 We're relying on a total system of the threshold
10 being one of those controls.

11 Q. Well, if you're relying on a system that
12 uses an average and you have some stores that do
13 300 scripts a week and some stores that do 6000
14 scripts a week, you would agree with me that
15 average probably isn't very helpful?

16 A. I would agree with you it's probably
17 flawed and it could be done better, which is why
18 our second version of our threshold system was
19 improved.

20 Q. How long did Giant Eagle and HBC utilize
21 this flawed version of the threshold report that
22 used a chain-wide average, from 2013 until when?

23 A. To be clear, I didn't say this report
24 was flawed. I said the methodology of averages
25 could lead to a false positive, which is what a

1 lot of these reports -- lot of these orders on
2 these reports are.

3 Q. How long did Giant Eagle and HBC use
4 this report?

5 A. As I think was established earlier in
6 testimony, this report started somewhere around
7 2013.

8 Q. I'm sorry. Until when? Tell me if I'm
9 wrong, but I think you said that you no longer use
10 a chain-wide average and now use a store average.

11 A. Correct.

12 Q. As we sit here today in 2018.

13 A. Correct.

14 Q. When did you stop using the chain-wide
15 average that you indicated is somewhat of a flawed
16 methodology that can produce false positives?

17 A. It can produce false positives. Till
18 2017. We changed, early 2017.

19 Q. So if we were to look at the life of
20 HBC's and Giant Eagle's threshold program, from
21 2009 to 2013, there was no threshold program.
22 From 2013 to 2017, there was a threshold program
23 based on a chain-wide average. And from 2017
24 through present, there's a threshold program
25 that's based on individual stores' metrics setting

1 the threshold?

2 A. Correct.

3 Q. From 2009 to 2013, what would cause HBC
4 to perform a due diligence investigation? What
5 about their system, what flags within the system
6 would cause HBC to perform a due diligence
7 investigation?

8 MR. BARNES: Object to form. Asked and
9 answered.

10 Go ahead.

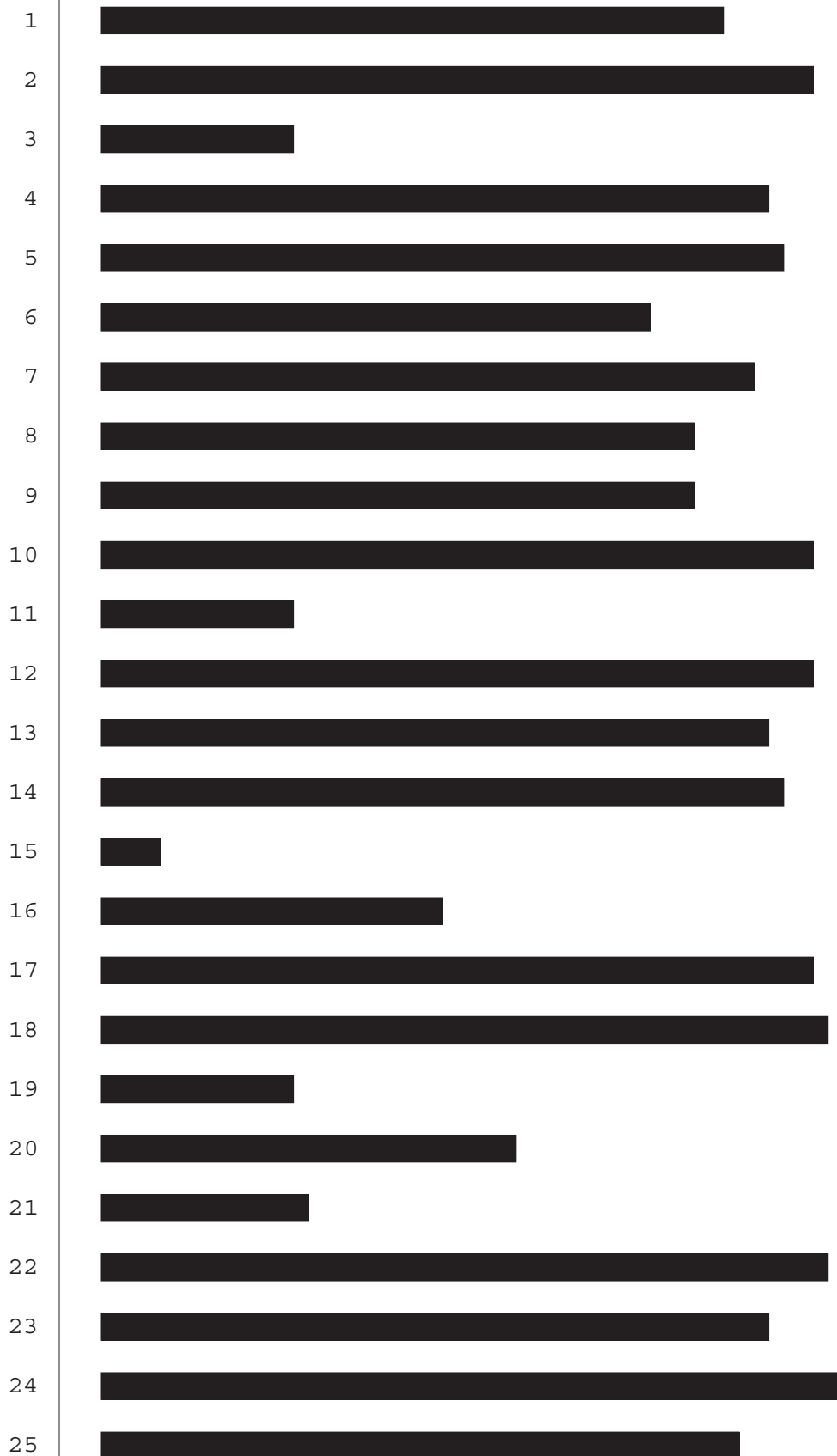
11 THE WITNESS: So as we established
12 earlier, we know what products are coming into our
13 warehouse, what products are going out to our
14 stores. Any pattern that would show -- our
15 procurement team as well as the warehouse team, if
16 they saw a spike in orders or a deviation of sorts
17 from that, they would see that, and they would
18 recognize that.

19 BY MR. GADDY:

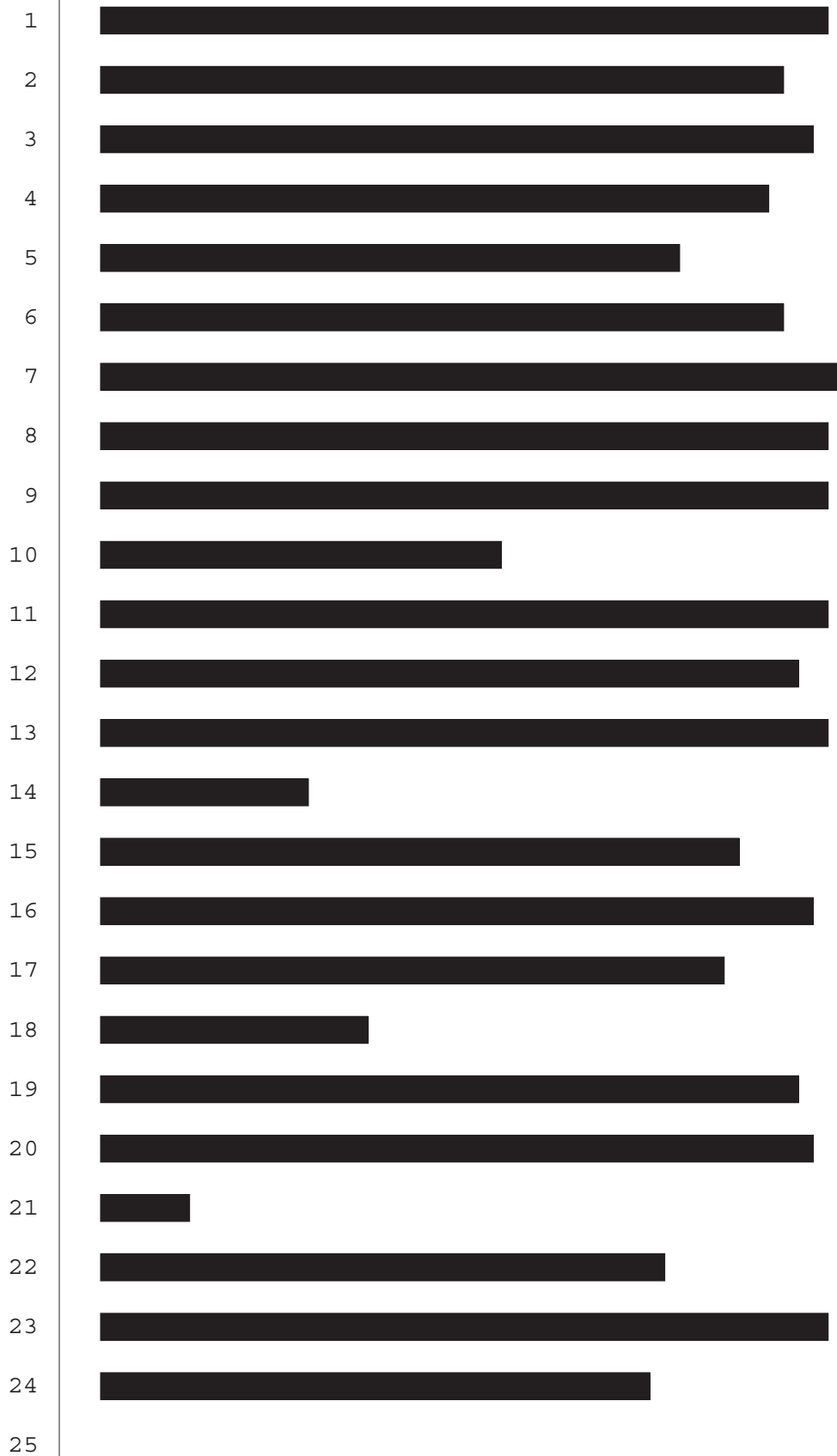
20 Q. From 2009 to 2013, are you able to
21 identify for me any orders of hydrocodone
22 combination products that due diligence was ever
23 performed on?

24 A. I'm sorry. Ask that once more, please.

25 Q. From 2009 until 2013, are you able to



170



1 BY MR. GADDY:

2 Q. Does HBC agree that orders are not
3 supposed to be shipped to the pharmacies until
4 they have been deemed not suspicious?

5 MR. BARNES: Object to form.

6 You can answer.

7 THE WITNESS: Again, in our system,
8 since we have line of sight from the warehouse all
9 the way out to the dispensing level, our
10 pharmacists are filling prescriptions pursuant to
11 legitimate prescriptions, which then generate
12 orders, and we ship those orders to the
13 pharmacies.

14 BY MR. GADDY:

15 Q. My question is more about timing of the
16 shipping. So we looked at some of these threshold
17 or we looked at one of these threshold reports.
18 And the reports indicate on their face that orders
19 of pills that exceeded the threshold were shipped
20 to the stores that were in excess of the
21 threshold. And you told me that after the reports
22 are generated, they're looked at, and then some
23 level of investigation is done; is that correct?

24 A. Correct.

25 Q. You agree with me that any investigation

1 that was being done by Giant Eagle or HBC is
2 happening after the orders have been shipped;
3 correct?

4 A. Perhaps, yes, perhaps.

5 Q. Well, that's what the forms indicate;
6 correct?

7 A. Well, some of them -- obviously looking
8 at some of these -- you mentioned this report is
9 on the 31st of the month. So if you look at some
10 of these, as I testified earlier, some of these
11 would have already been cleared and some of them
12 you could already tell that there would be a false
13 positive.

14 So some of them you would have known -- you
15 would have known that -- you would have cleared
16 them early is what I'm trying to say knowing that
17 they were a false positive.

18 Q. But by the time the procurement folks
19 see this report, the pills have already been
20 shipped; correct?

21 A. They may have. The report -- the report
22 generates early in the morning. Stores don't
23 receive their orders till after they open. So
24 they would have been shipped, but not received in
25 some cases, in transit.

1 Q. Break that down for me. You state the
2 reports are generated early in the morning. What
3 does that mean?

4 A. I'm not sure of the exact time, but
5 certainly before our pharmacies open for business.

6 Q. What time do your pharmacies open for
7 business?

8 A. Some open at 9:00. Some open at
9 8:00 generally.

10 Q. Let me just ask it this way. Did HBC or
11 Giant Eagle have any policy in place that any
12 orders that popped on the threshold report were
13 not shipped until they've been cleared?

14 A. Not that I could find a policy.

15 Q. They're still operating under the
16 threshold policy today. Today are these orders
17 shipped or are they blocked merely because they
18 come up on the report, or are they shipped and
19 then the diligence is performed?

20 A. So in our experience, having looked at
21 reports having looked at thresholds, we generated
22 very few suspicious orders over the timeframe that
23 we've been operating. So I guess I'm trying to
24 understand.

25 In our environment, we're able to intercept,

1 retrieve, quarantine product all the way up to the
2 time it gets to the store, after it lands at the
3 store, when in transit with the truck. So we're
4 able to intercept -- the change of title never
5 happens. Giant Eagle owns the product. Giant
6 Eagle ships the product. Giant Eagle receives the
7 product at the stores. So I guess I'm just trying
8 to follow your question.

9 Q. Frankly, I'm trying to following your
10 answer. Because I said they're shipped before the
11 investigation happened, and your answer was, well,
12 the reports are generated early in the morning and
13 the pharmacies don't open until 8:00 or 9:00, so
14 maybe they haven't gotten there yet.

15 So my question is whether or not the orders
16 are shipped, whether or not there's a policy or a
17 rule, a procedure, that requires the orders to not
18 be shipped until somebody from procurement looks
19 at it and says, oh, that's a false positive, oh,
20 there's a justification for that.

21 Is there a policy, procedure or rule in place
22 that does such?

23 A. No.

24 Q. You mentioned just a few minutes ago
25 that I guess because you're shipping to your own

1 stores, I think the phrase you used was the title
2 never changes.

3 So what I'm asking about, are you aware of
4 instances where you've had to turn the truck
5 around and bring it back to the distribution
6 center because there's pills didn't need to go to
7 that store?

8 A. In our history, we've only had very few
9 suspicious orders, so we haven't had an instance
10 where we needed to grab an order back.

11 Q. You mentioned that you could go to a
12 store or quarantine an order at a store. Has
13 there ever been an instance that you're aware of
14 where HBC or Giant Eagle has had to call the store
15 and tell them, don't open that tote, put that to
16 the side, we got to come, get it back from you
17 because that order shouldn't have been shipped?

18 A. We haven't, but we've had instances
19 where we've shut off stores in the cases we've had
20 on our suspicious orders, shutting off stores from
21 being able to order any more product, either from
22 us or from our other wholesaler, our commercial
23 wholesaler. So steps quickly can be put into
24 place.

25 Q. And I'm going to ask you about the

1 history of suspicious order reports in just a
2 second. So we'll get into that into a little bit
3 of detail. You don't remember any times where you
4 had to turn a truck around, don't remember any
5 times where you had to call a pharmacy and ask
6 them to put a tote to the side and not open it;
7 that hasn't happened?

8 A. Not that I've seen in what I've looked
9 at.

10 Q. So every time that orders have been
11 flagged or popped on this threshold report going
12 back to 2013, they've always been shipped, and
13 they've never been brought back?

14 A. As far as I can tell, no.

15 Q. From 2013 till we sit here today, every
16 order that's ever popped on HBC's or Giant Eagle's
17 threshold report as being over threshold has
18 always been shipped, has never been reported to
19 the DEA and has never been brought back?

20 MR. BARNES: Wait a minute. Object to
21 form.

22 BY MR. GADDY:

23 Q. Is that correct?

24 MR. BARNES: This is one report with a
25 hundred --

1 MR. GADDY: That's all I'm asking. I'm
2 asking him the question, not you.

3 MR. BARNES: Don't trick him.

4 THE WITNESS: Can you ask the question
5 again, please?

6 BY MR. GADDY:

7 Q. 2013 through today, have there ever been
8 any controlled substances that have been flagged
9 on this report that have not been shipped to the
10 stores?

11 MR. BARNES: Object to form.

12 THE WITNESS: The orders that have been
13 flagged on this report were received by the
14 stores, is that your question?

15 BY MR. GADDY:

16 Q. I think you answered my question.

17 So every report -- every entry that's flagged
18 here on this report was sent to the stores;
19 correct?

20 A. Every entry on these stores, none of
21 them were flagged as suspicious. They were all
22 investigated and cleared.

23 Q. And that's fine if that's what the
24 answer is. I'm just trying to make sure that's
25 clear.

1 A. That is the answer. I'm telling you
2 what happens.

3 Q. Going back to 2013, as we sit here
4 today, every item that's showing up on this report
5 has been investigated and cleared?

6 A. Yes.

7 Q. From 2009 until 2014 -- here I'm only
8 asking about HBC; I'm not asking about the new
9 Giant Eagle distribution center -- do you have any
10 understanding of how many orders for hydrocodone
11 combination products HBC received from Giant Eagle
12 pharmacies?

13 A. I'm sorry. One more time. 2009 to
14 2014?

15 Q. Sure. I'm only asking about HBC. I'm
16 not asking about the Giant Eagle facility.

17 Do you have an understanding as to how many
18 orders for hydrocodone combination products HBC
19 received from Giant Eagle pharmacies?

20 A. How many orders HBC -- I'm sorry. I'm
21 just trying to follow. How many orders HBC
22 received?

23 Q. Correct.

24 A. From Giant Eagle pharmacies?

25 Q. Correct.

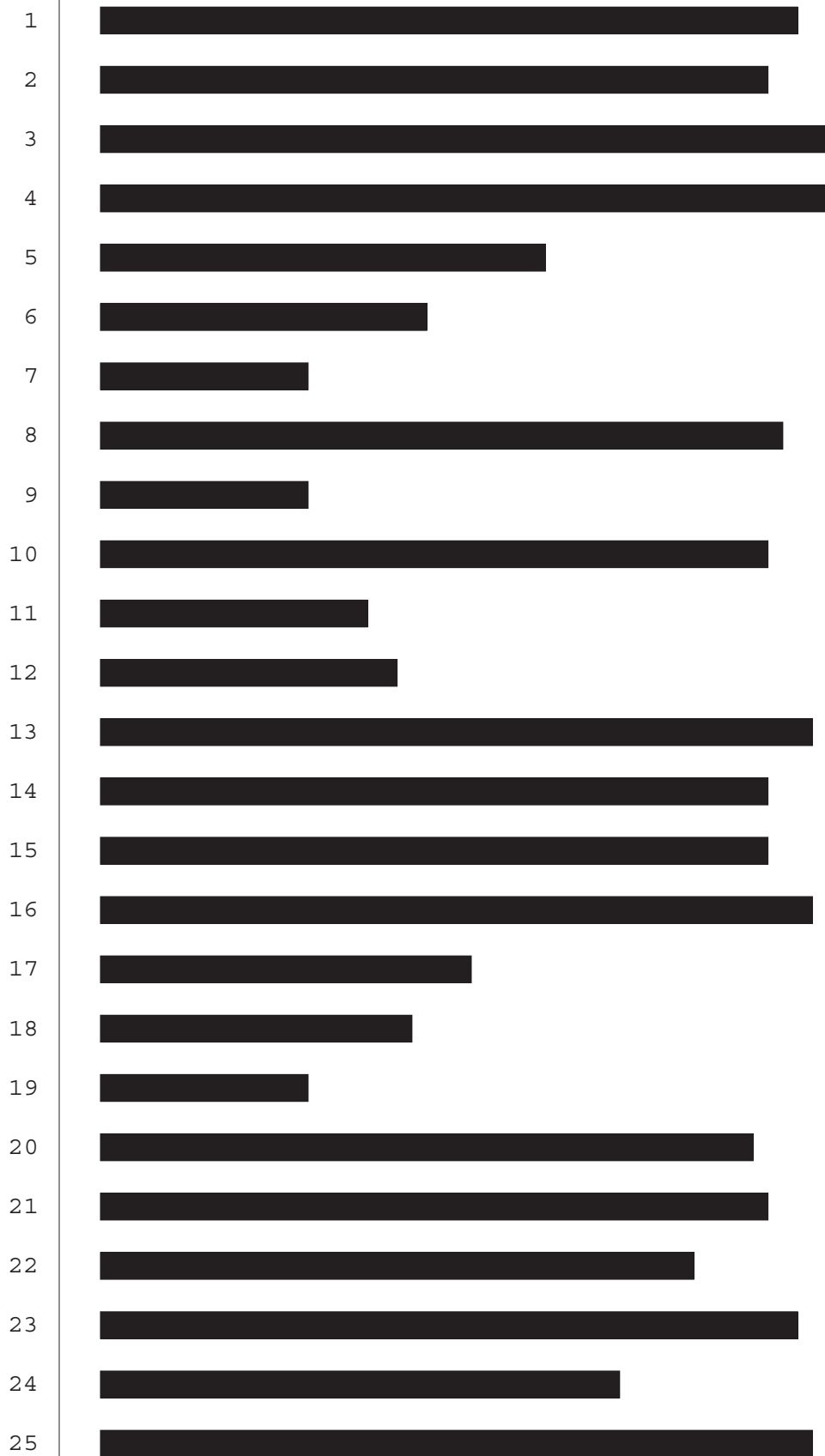
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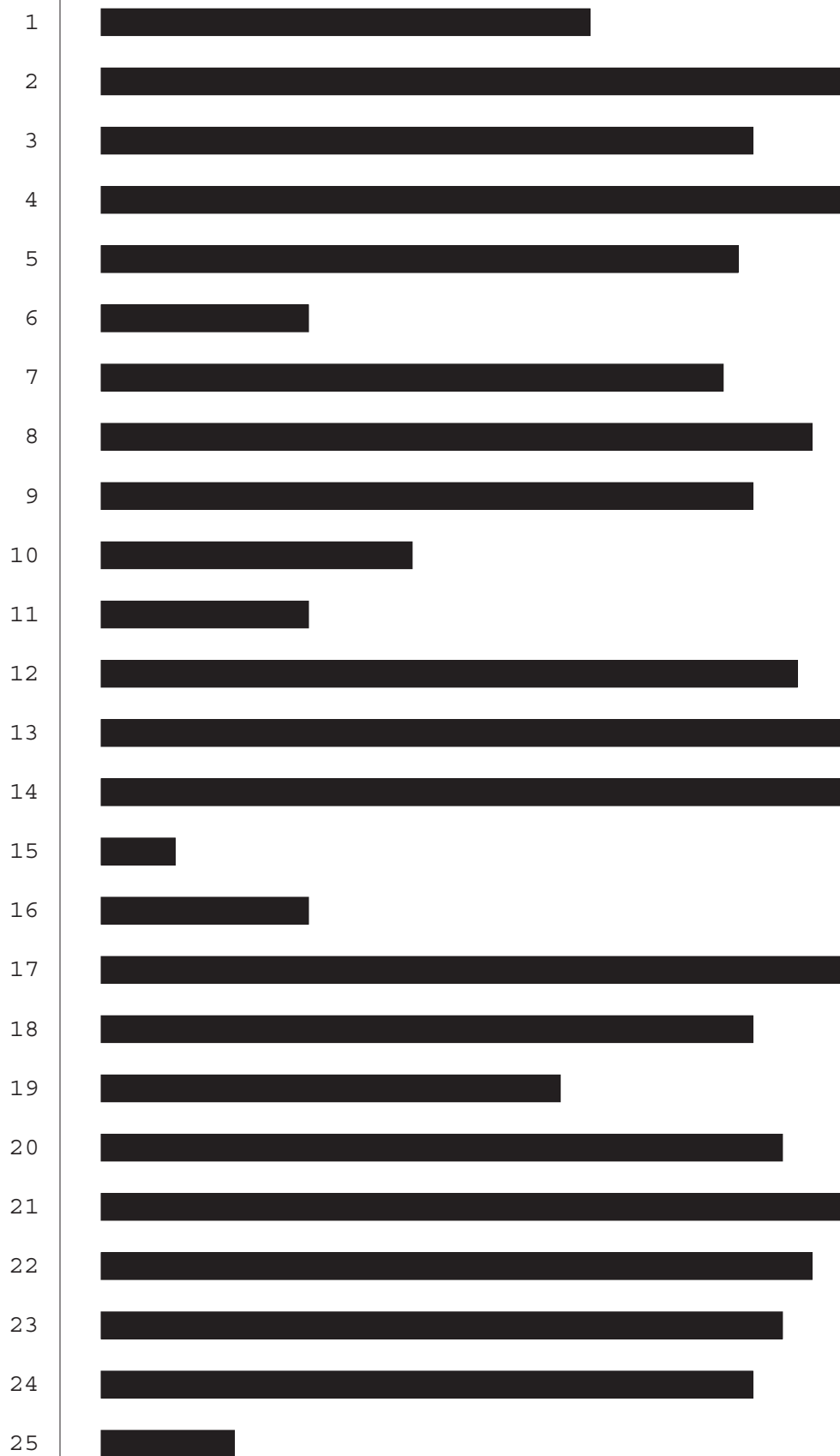
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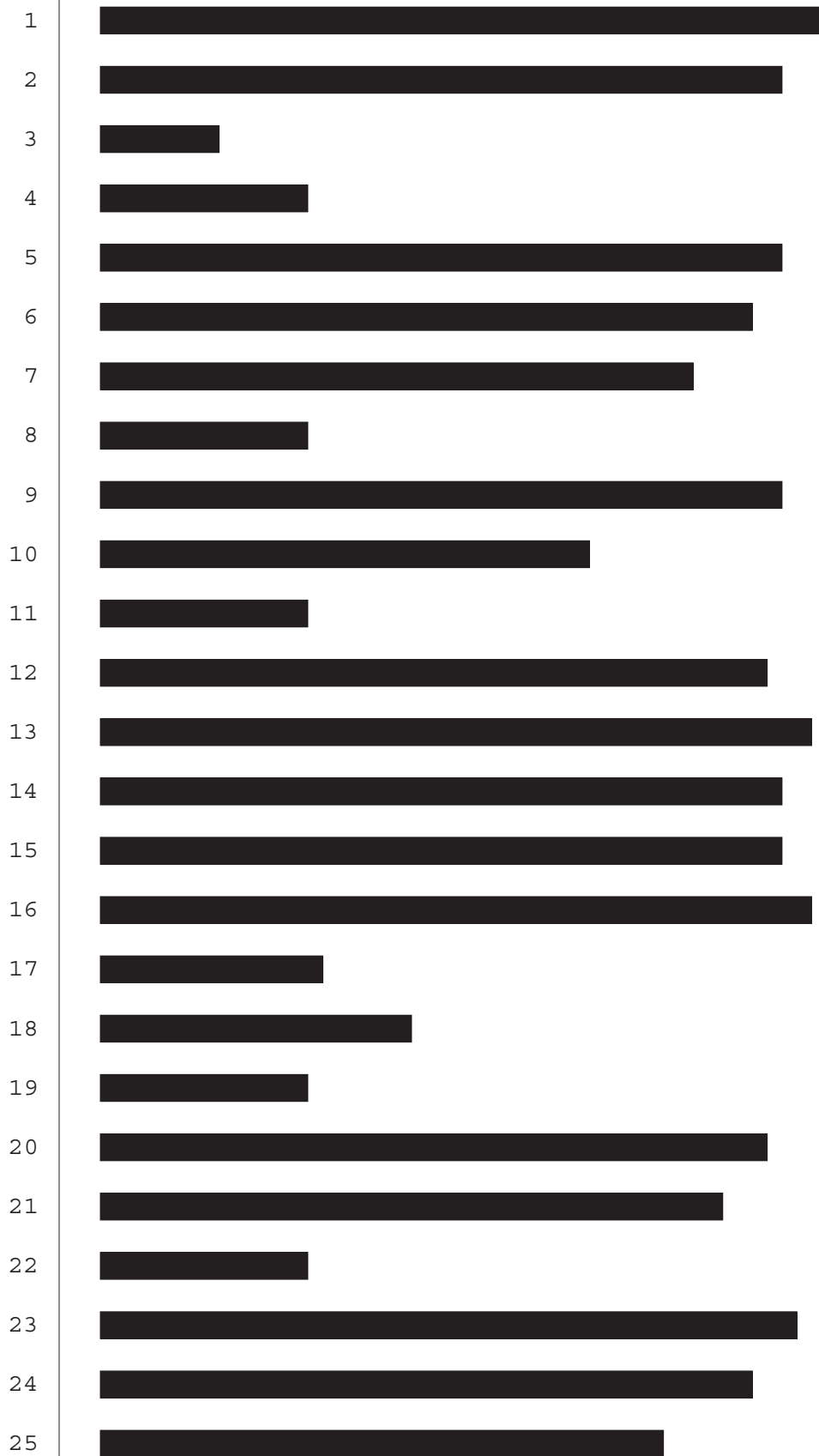
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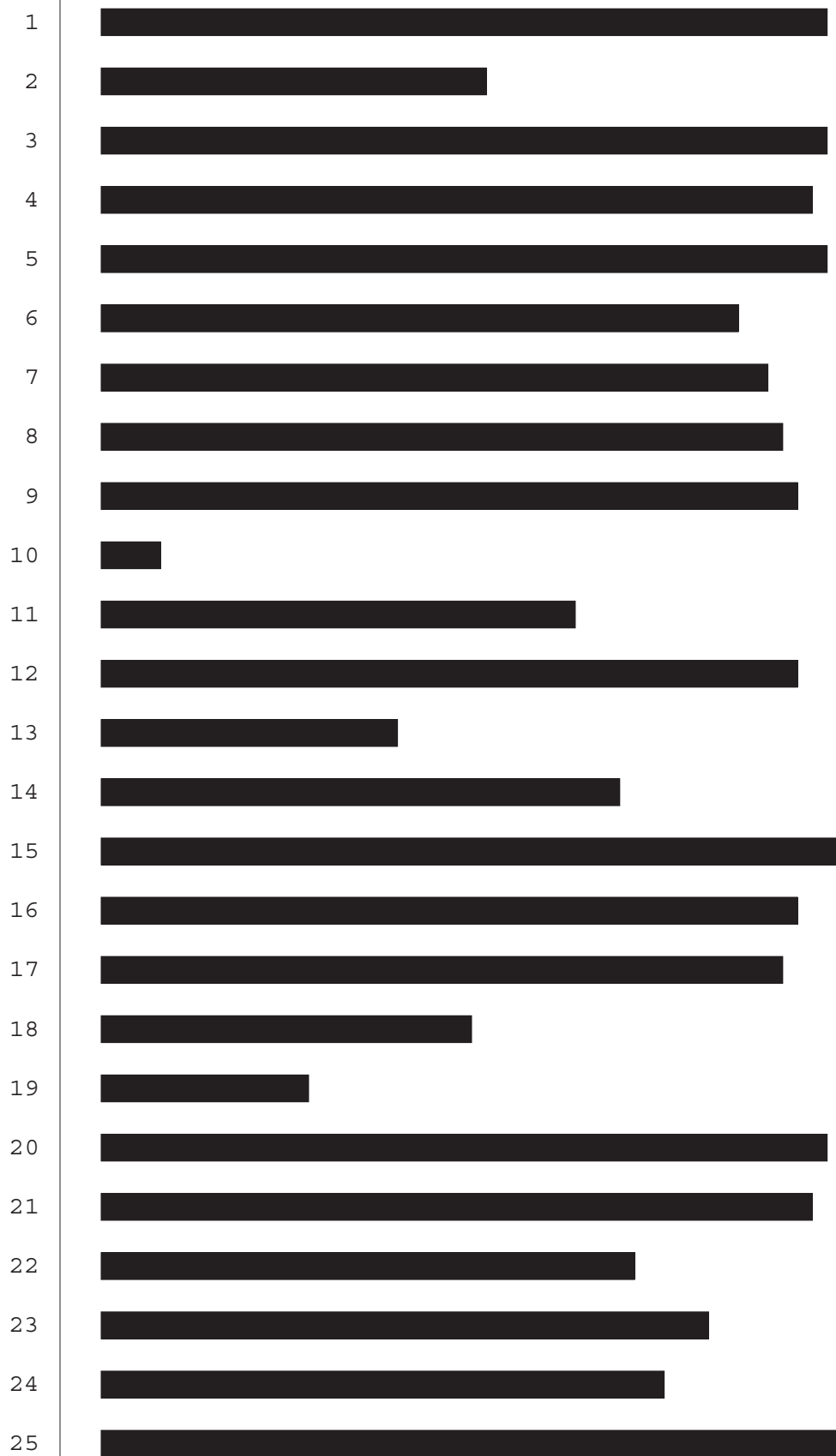




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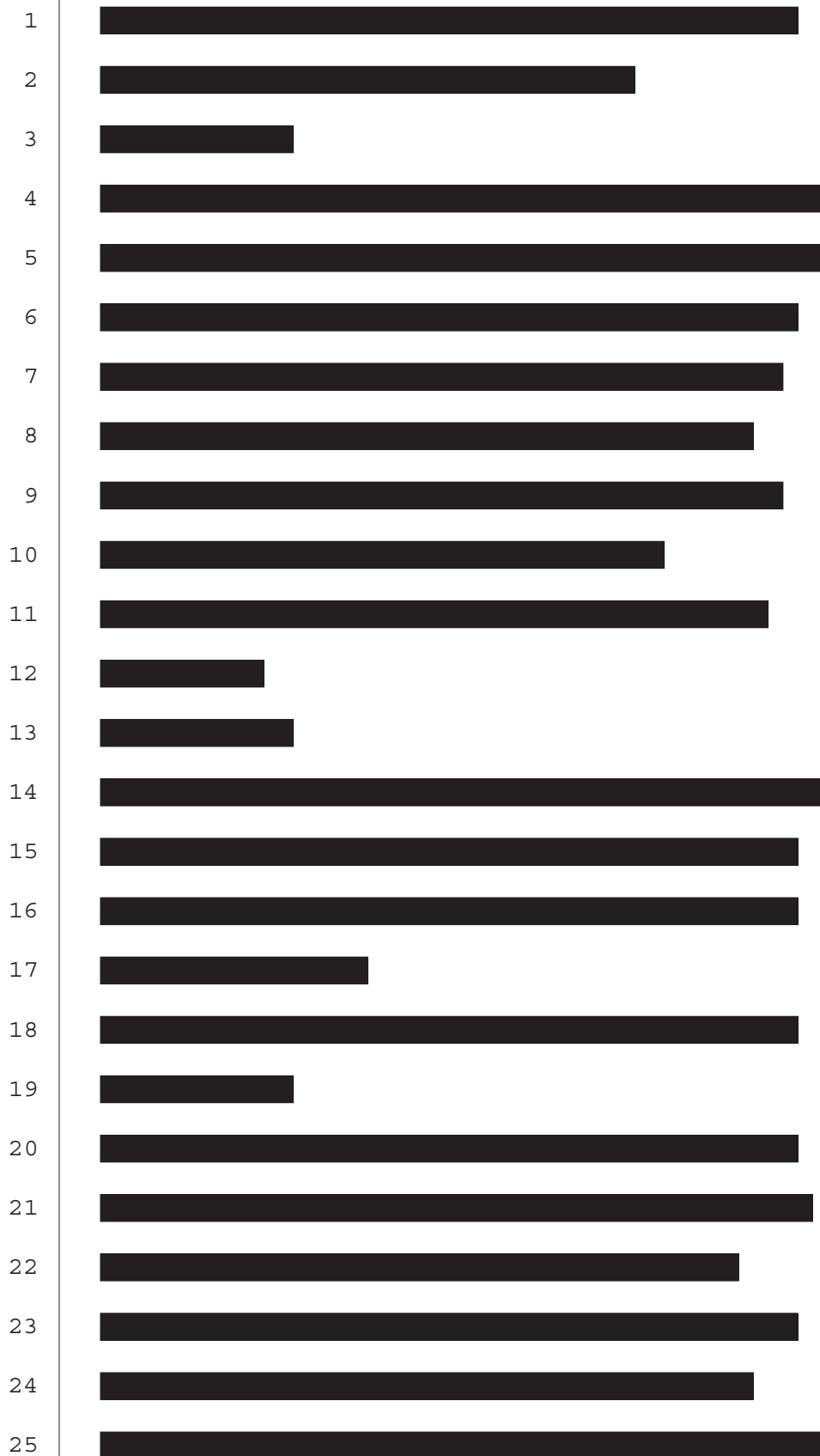
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1 MR. BARNES: I'm going to object. With
2 respect to the discovery cut-off, we're not going
3 to the present obviously. We've indicated in our
4 discovery responses that we're filing a June 1,
5 2018 discovery cut-off. So we would object to any
6 questions beyond that date generally.

7 THE WITNESS: To answer your question,
8 up until the date of June 1st of 2018, two, two
9 orders.

10 BY MR. GADDY:

11 Q. How many -- of those suspicious orders
12 that were reported, how many of those two orders
13 were for hydrocodone combination products?

14 A. Zero.

15 (HBC-Tsipakis Exhibit 18 was marked.)

16 BY MR. GADDY:

17 Q. I'm going to show what I'll mark as
18 Exhibit 18.

19 MR. GADDY: It's HBC 1005 internally.

20 BY MR. GADDY:

21 Q. And if you would start for me, please,
22 at the beginning of the email chain on page 2.

23 A. .2?

24 Q. Correct. It starts about halfway down
25 the page with an email from Robert McClune. Do

1 you see that?

2 A. Yes.

3 Q. The subject of the email is Thrifty
4 White Notes. It says, "Team, I wanted to send a
5 note out regarding our trip to Thrifty White
6 yesterday in conjunction with the planned
7 warehouse move vault and refrigeration."

8 Do you see that?

9 A. Yes.

10 Q. What is Thrifty White?

11 A. Thrifty White is another regional
12 pharmacy chain.

13 Q. Is it white or right?

14 A. White, Thrifty White.

15 Q. What was the purpose in HBC and Giant
16 Eagle employees taking a visit to Thrifty White?

17 Let me ask you this: Are you aware
18 independently without reviewing the email?

19 A. No.

20 Q. I'll withdraw the question.

21 So it says the team went to Thrifty White
22 yesterday. Then it says in the next paragraph,
23 "Please chime into this email string with your
24 Thrifty White notes. Do not worry about
25 duplication. Just bring them."

1 Do you see that?

2 A. Yes.

3 Q. And then if you look at the bottom of
4 that page and flip to the next page, you just kind
5 of see a set of bullet points, and there's a
6 heading in that about Thrifty White notes. Do you
7 see that?

8 A. Yes.

9 Q. And if we flip through back to the first
10 page of the document, do you see the response from
11 Joe Millward who I think you said was head of the
12 compliance department?

13 A. Yes.

14 Q. And he writes, "Here are my notes." And
15 the title of his notes are Thrifty White Visit
16 Notes 8/19/2015. Are you with me?

17 Note number one is, "Keep engaged with the
18 DEA through all steps of the process."

19 Do you see that?

20 A. Yes are.

21 Q. His second note that he writes is, "It
22 is critical to have a robust suspicious order
23 monitoring program."

24 Do you see that?

25 A. Yes.



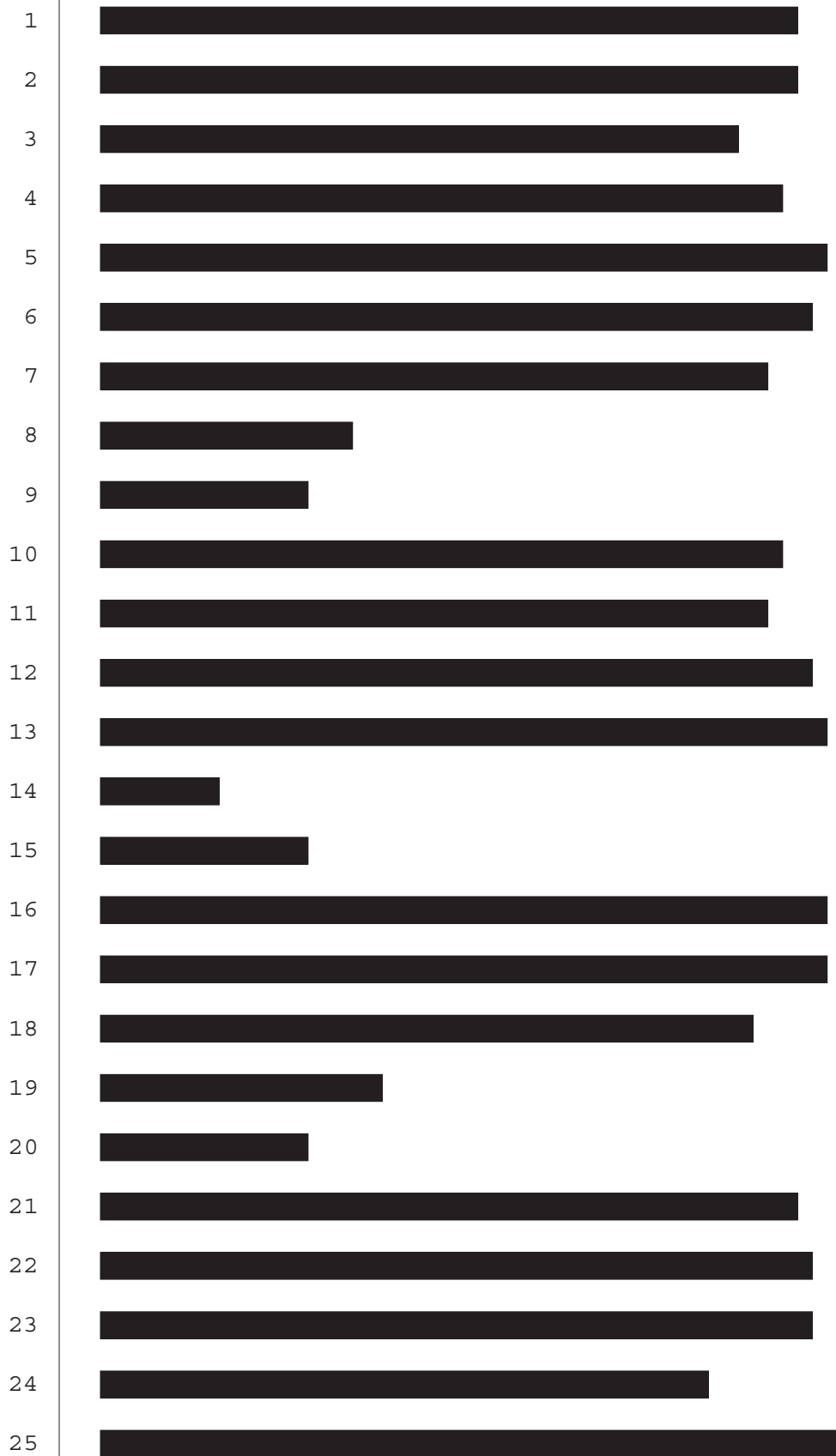


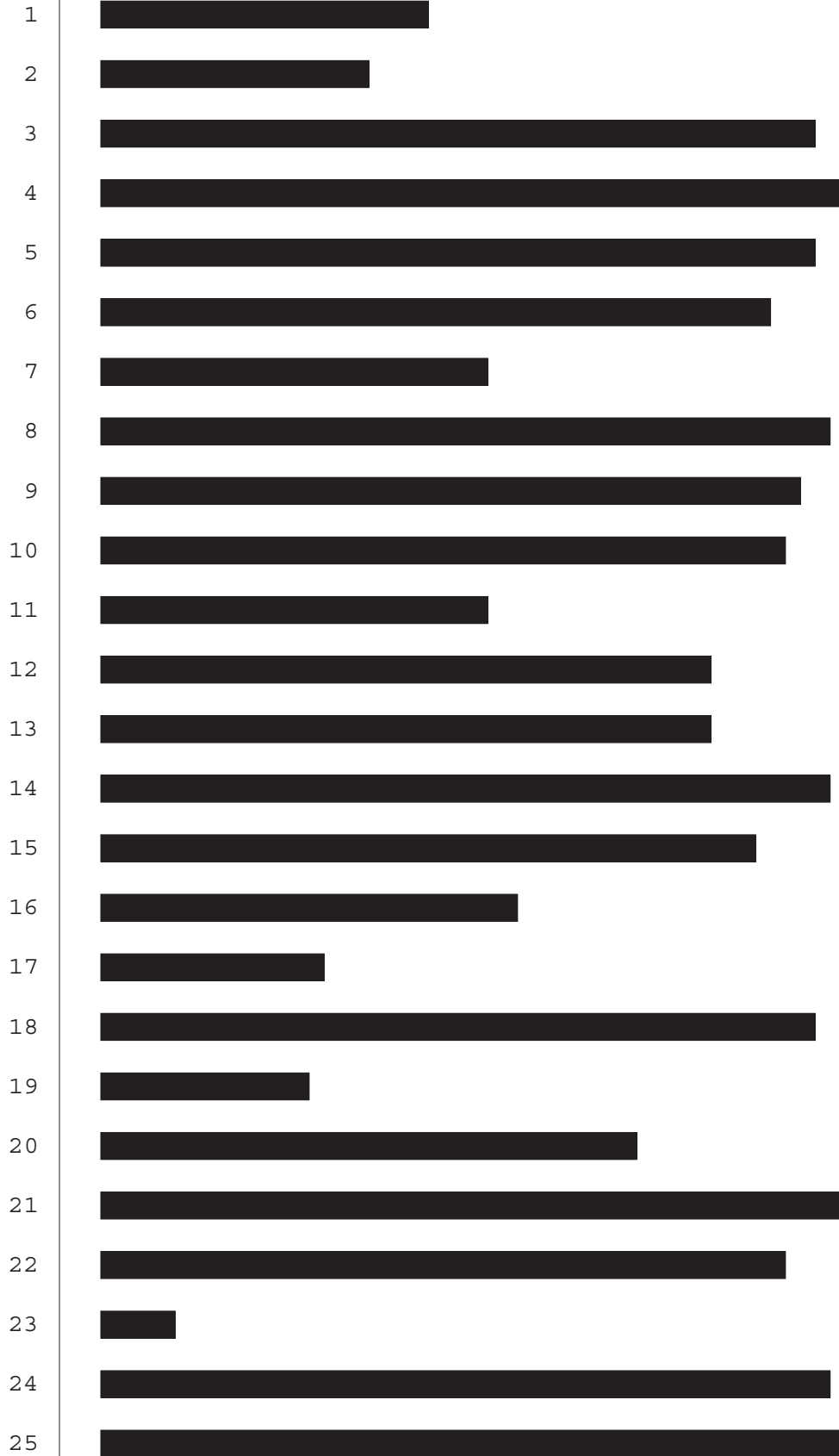












1 of '15?

2 A. Yes.

3 Q. I'm going to show you what I will mark
4 as Exhibit No. 20.

5 (HBC-Tsipakis Exhibit 20 was marked.)

6 MR. GADDY: This is HBC 1023, which
7 we're marking as Exhibit 20.

8 BY MR. GADDY:

9 Q. And if we look at the first page, do you
10 recognize this to be an email from Adam Zakin in
11 March of 2016?

12 A. Yes.

13 Q. You can go ahead and turn to the back
14 page so we can get to the earliest email in the
15 chain.

16 Do you see it says, "Hello, Joseph and
17 George. As a follow-up to our discussions, I have
18 attached our SOM solution proposal for your
19 review. Once you've had a chance to review this
20 internally, we would welcome an opportunity to
21 talk through our two SOM options and answer any
22 questions you have."

23 Do you see that?

24 A. Yes.

25 Q. And it's from Gary at Buzzeo. Do you

1 see that?

2 A. Yes.

3 Q. Do you know what Buzzeeo is?

4 A. Yes.

5 Q. What is that?

6 A. Buzzeeo is the compliance arm of IQVIA.

7 They purchased Buzzeeo years back. I'm familiar
8 with them.

9 Q. Do you know what the purpose of
10 Buzzeeo -- what service it is that they provide?

11 A. Consultant services that they provide.

12 Q. And what he's indicating here I think as
13 we'll see as we go through, he wants to talk to
14 Joe Millward and George Chunderlik regarding
15 suspicious order monitoring programs; correct?

16 A. Yeah. He's a salesmen trying to pitch a
17 solution or a consultant or consulting engagement,
18 sure.

19 Q. If we go back to the first page and we
20 go two-thirds of the way down, you see an email
21 from George Chunderlik.

22 A. First page?

23 Q. Yes, about two-thirds of the way down.

24 Are you with me, George Chunderlik on March 24,
25 2016?

1 A. Um-hum.

2 Q. And he says, "Hi, Adam and Bob. I think
3 it would be" -- and to be clear -- never mind.

4 He's writing to Bob McClune and Adam Zakin;
5 correct?

6 A. Yes.

7 Q. Tell me who they are and what they do
8 within HBC or Giant Eagle.

9 A. At the time of this email; correct?

10 Q. Sure.

11 A. So at the time of this email, Adam is
12 senior director of administration, which includes
13 the procurement team. Bob works for Adam
14 basically on the procurement and analytics team.

15 Q. Are they both still with the company?

16 A. Yes.

17 Q. George says, "I think it would be
18 worthwhile to talk to these guys about their SOM
19 program. I'm curious to see their products. I'm
20 going to set something up for us and include Jason
21 unless you have any objections."

22 Do you see that?

23 A. Yes.

24 Q. If you go back up to the top of the
25 page, you see Adam's response; correct?

1 A. Yes.

2 Q. He says, "We saw this. We're not there.
3 At the end of day, the only thing it did that our
4 current system would not do was stop the orders
5 physically if there was a threshold."

6 Do you see that?

7 A. Yes.

8 Q. So in March of 2016, HBC or Giant Eagle,
9 their current system would not physically stop the
10 orders that rose above the threshold; correct?

11 A. Correct.

12 Q. This outfit was selling a product that
13 would have stopped the orders that were identified
14 as being above the threshold prior to them being
15 shipped to the store, correct, at least according
16 to George and Adam?

17 A. I don't know what they were -- what they
18 looked at, what was presented. So I can't
19 speculate what it does or doesn't do.

20 Q. That's what Adam is representing they
21 did; correct? He says, "The only thing it did
22 that our current system would not do was stop the
23 orders physically if there was a threshold."

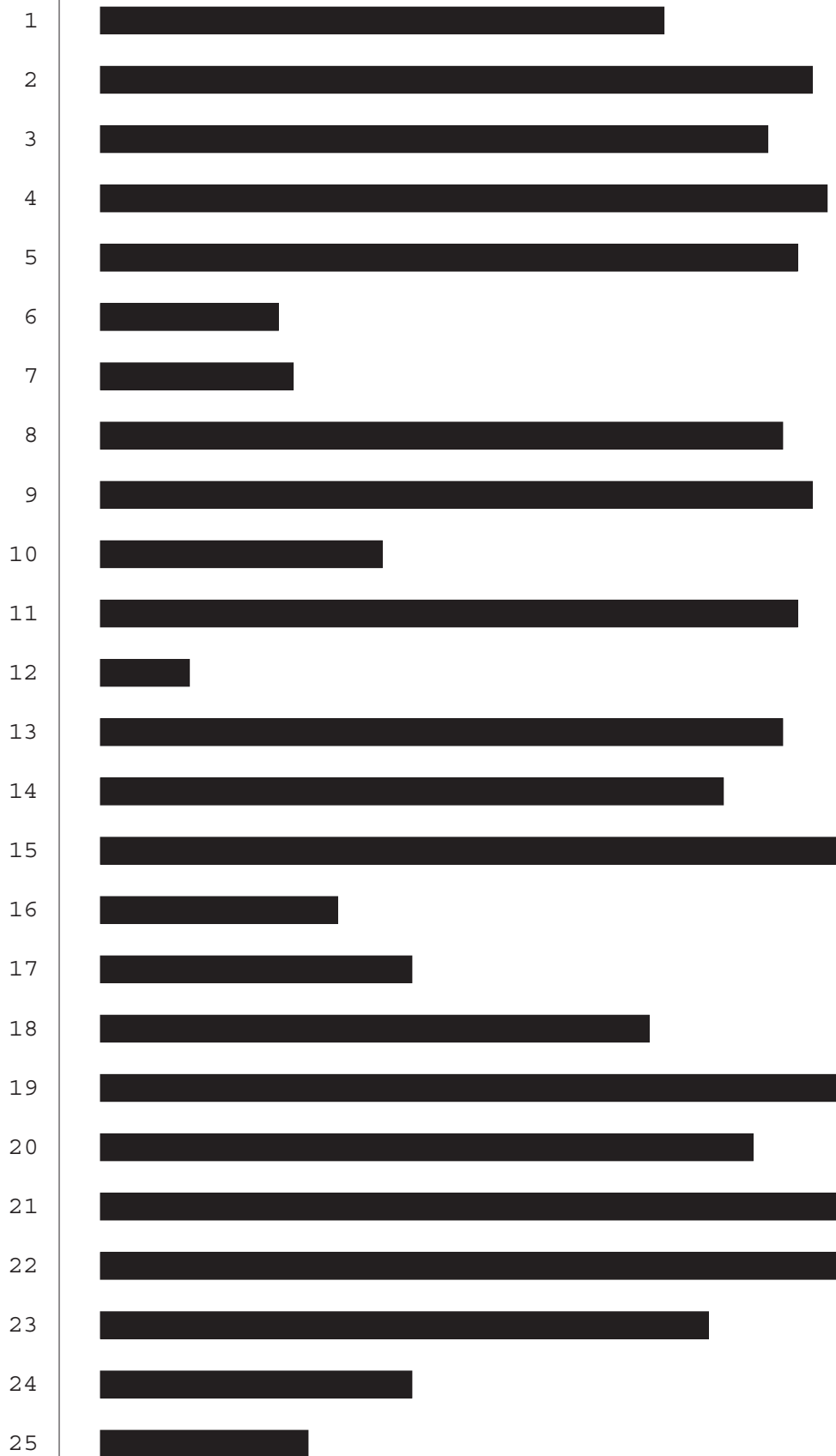
24 A. That's what it says here and he
25 represented here, yes.

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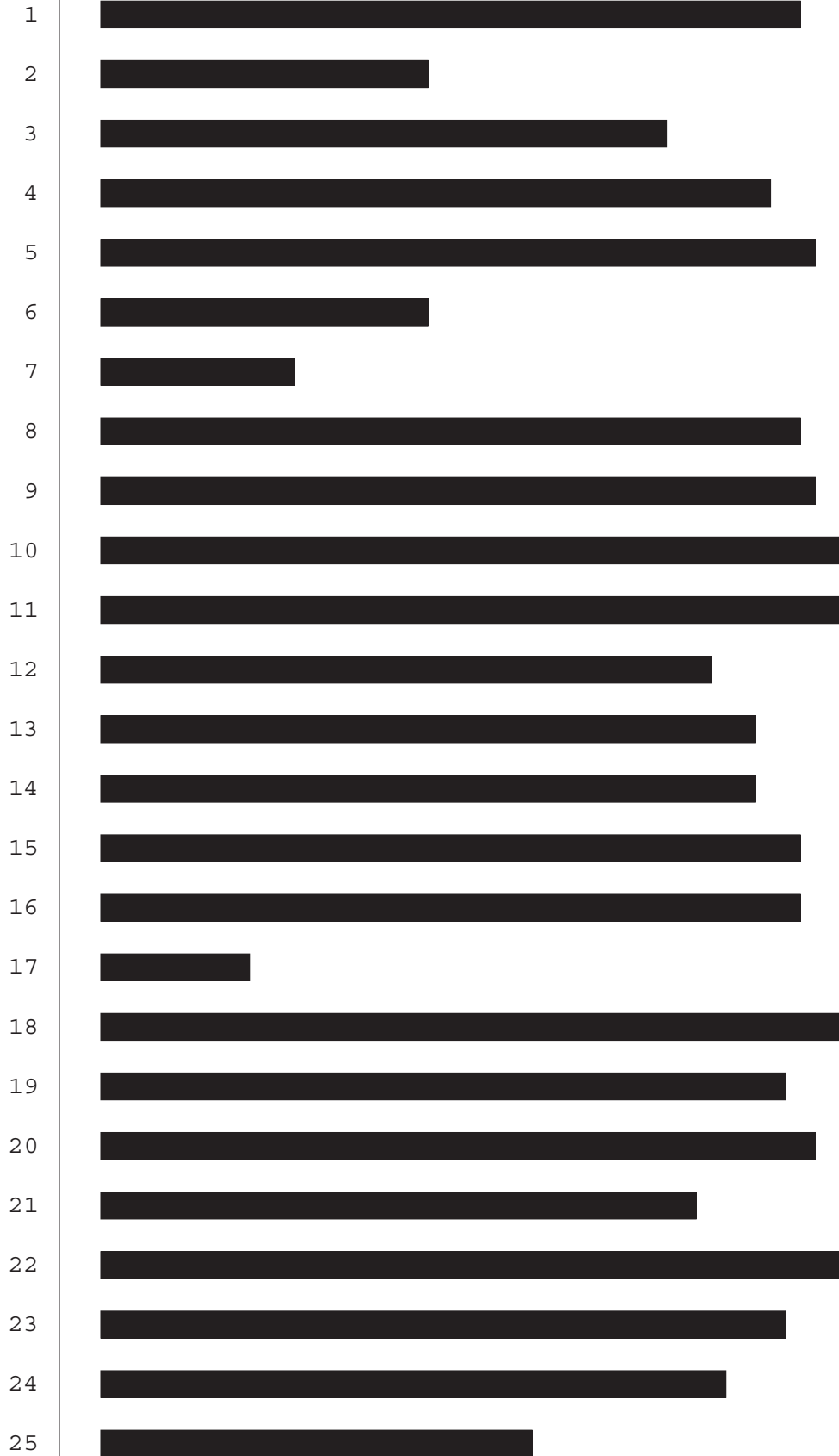






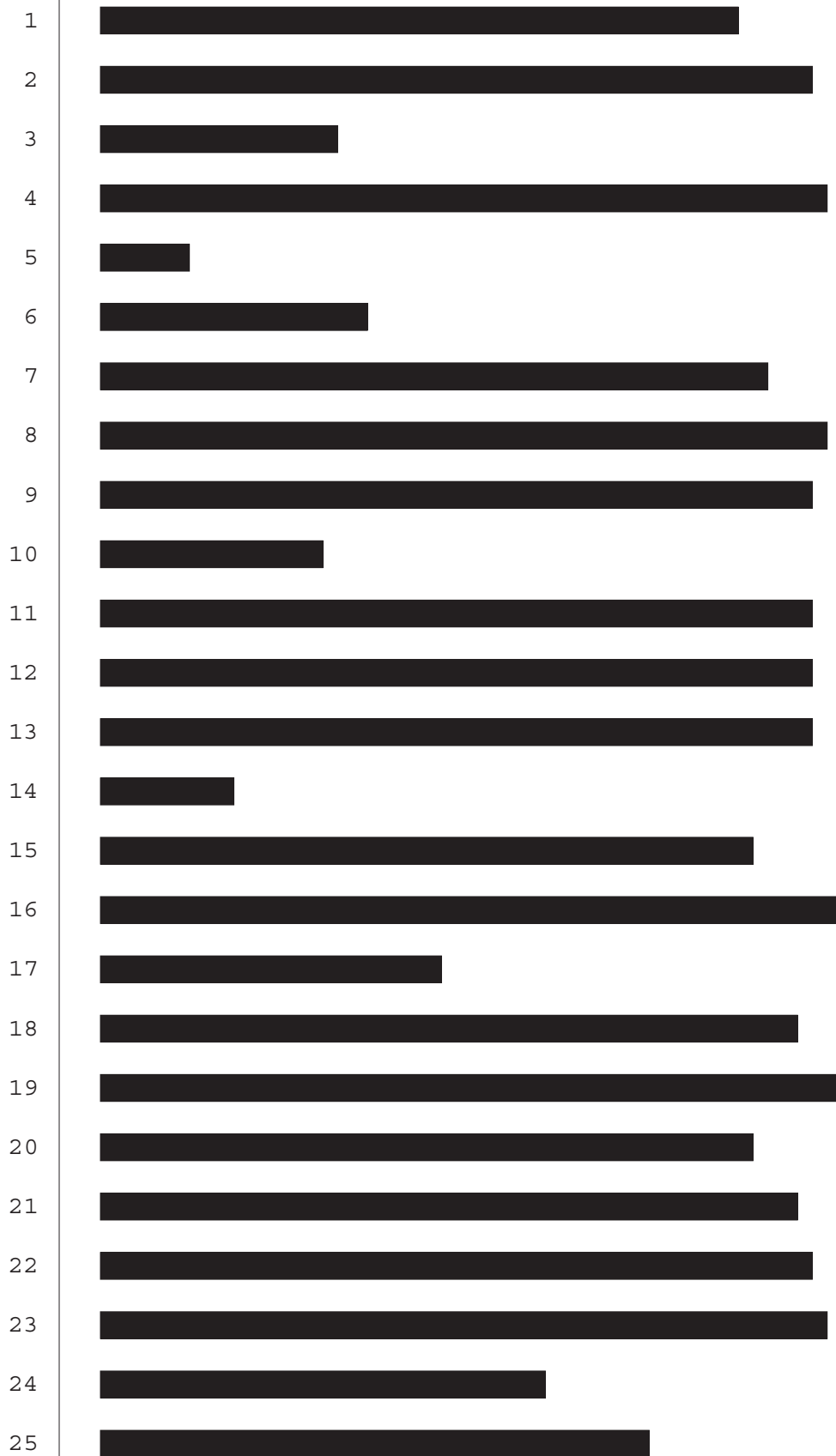






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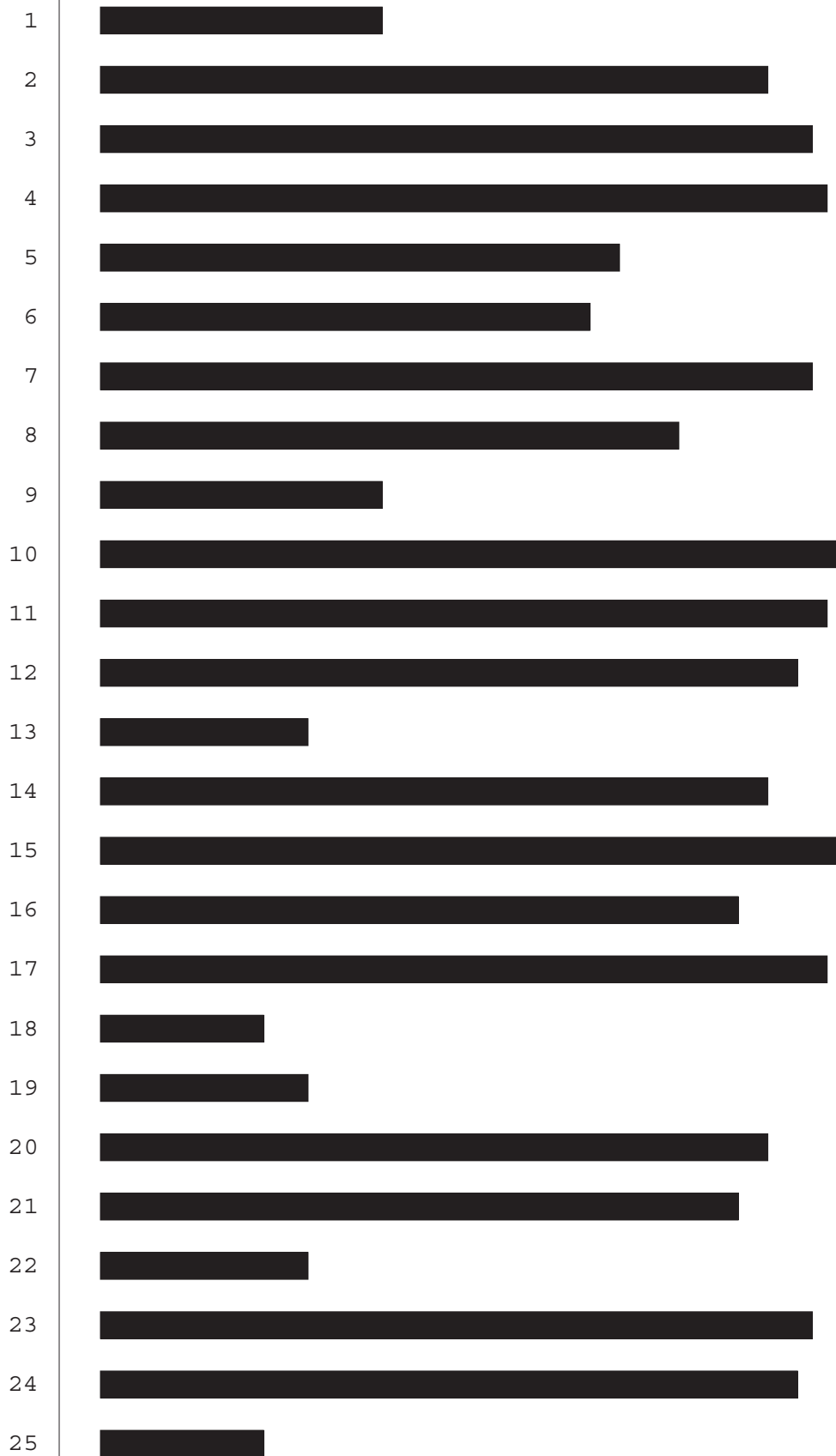


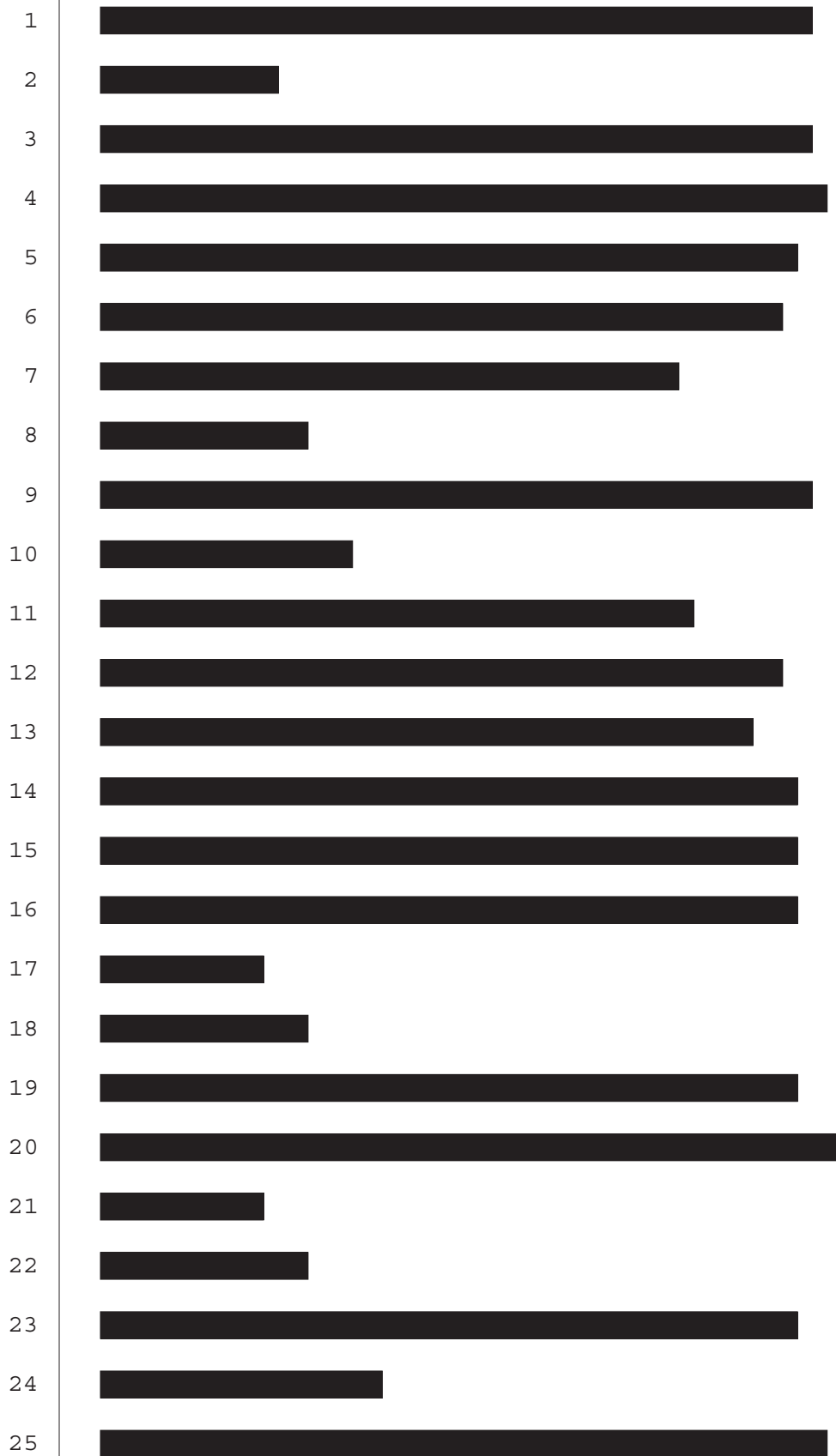


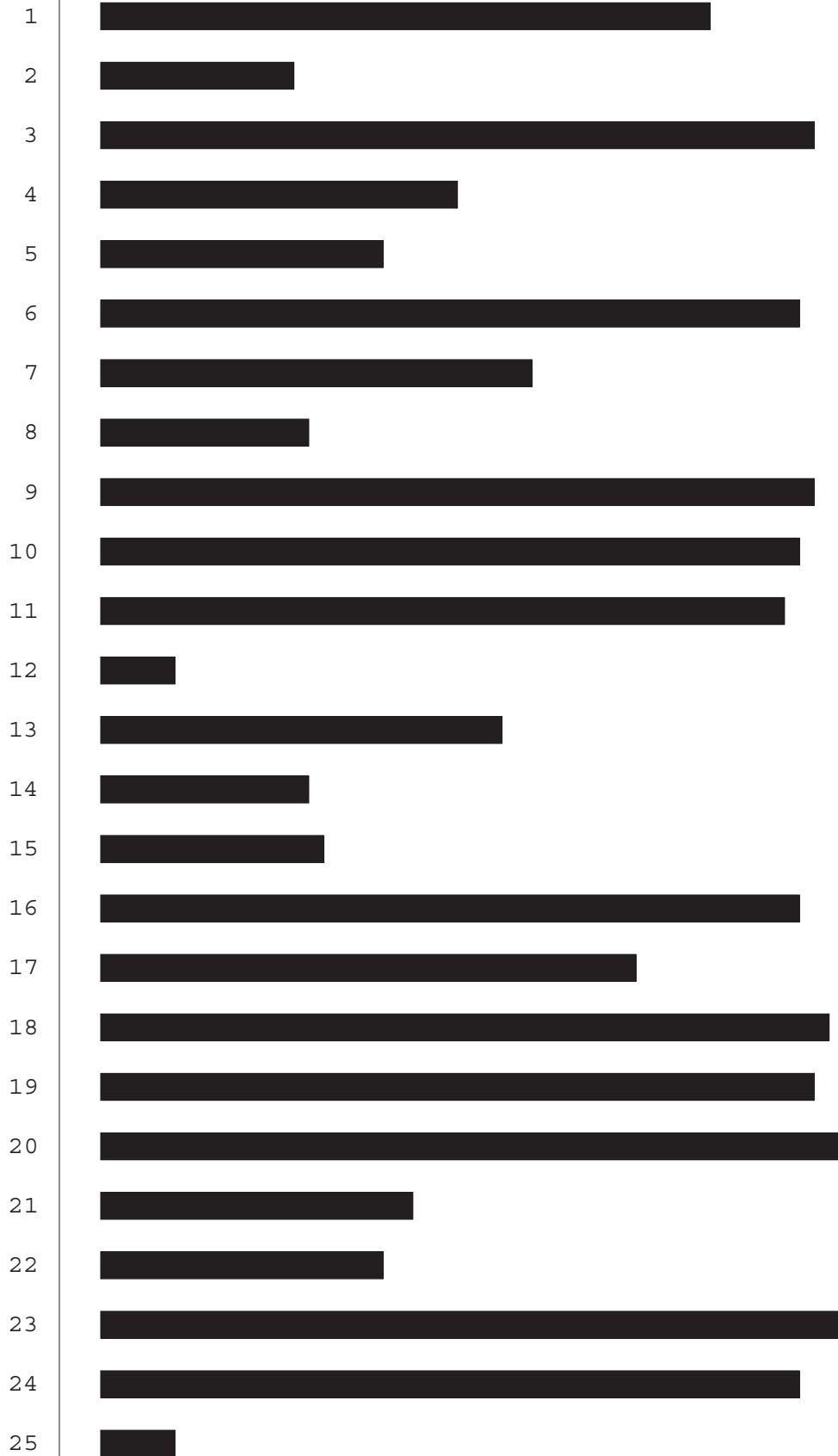
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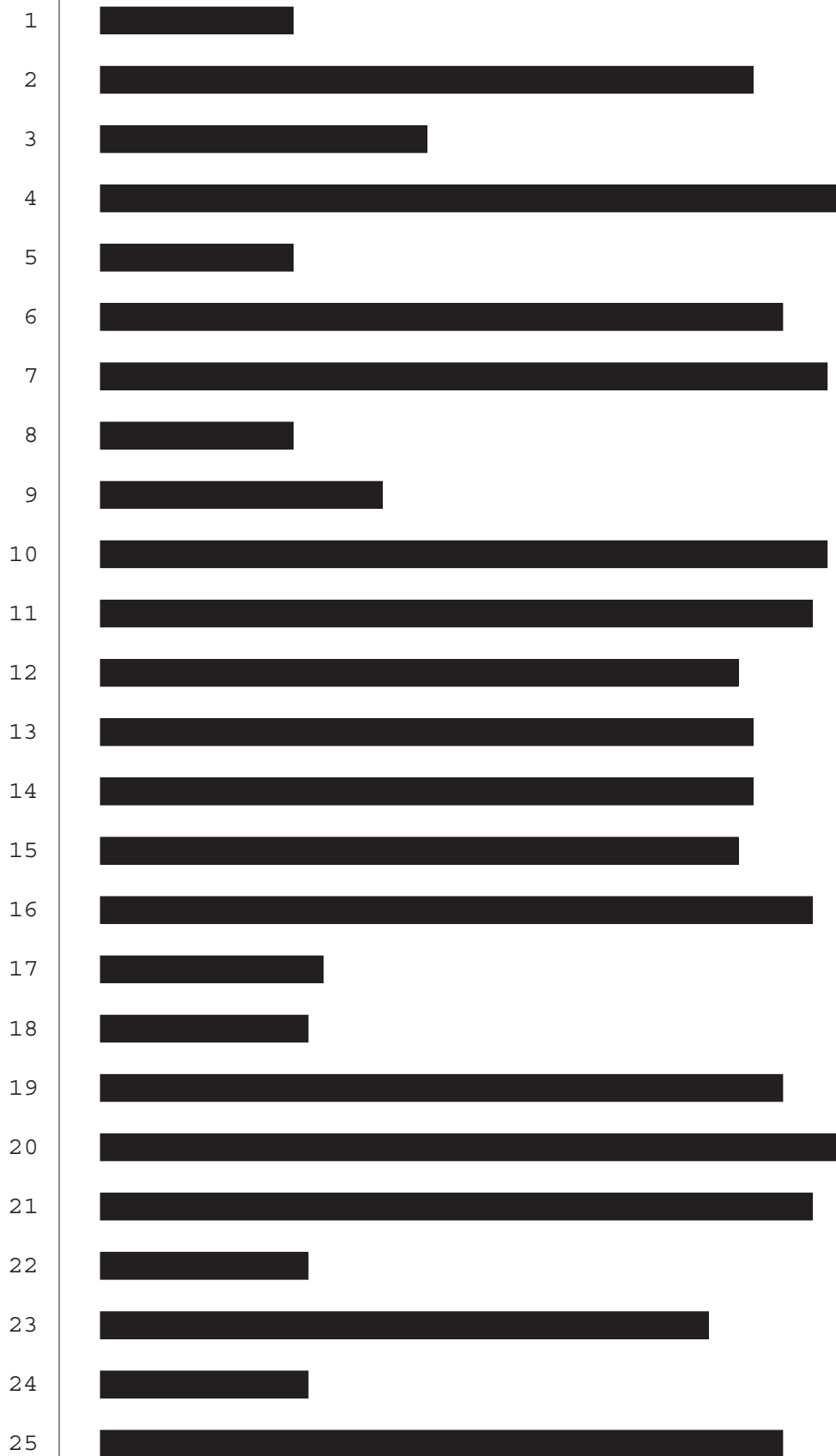
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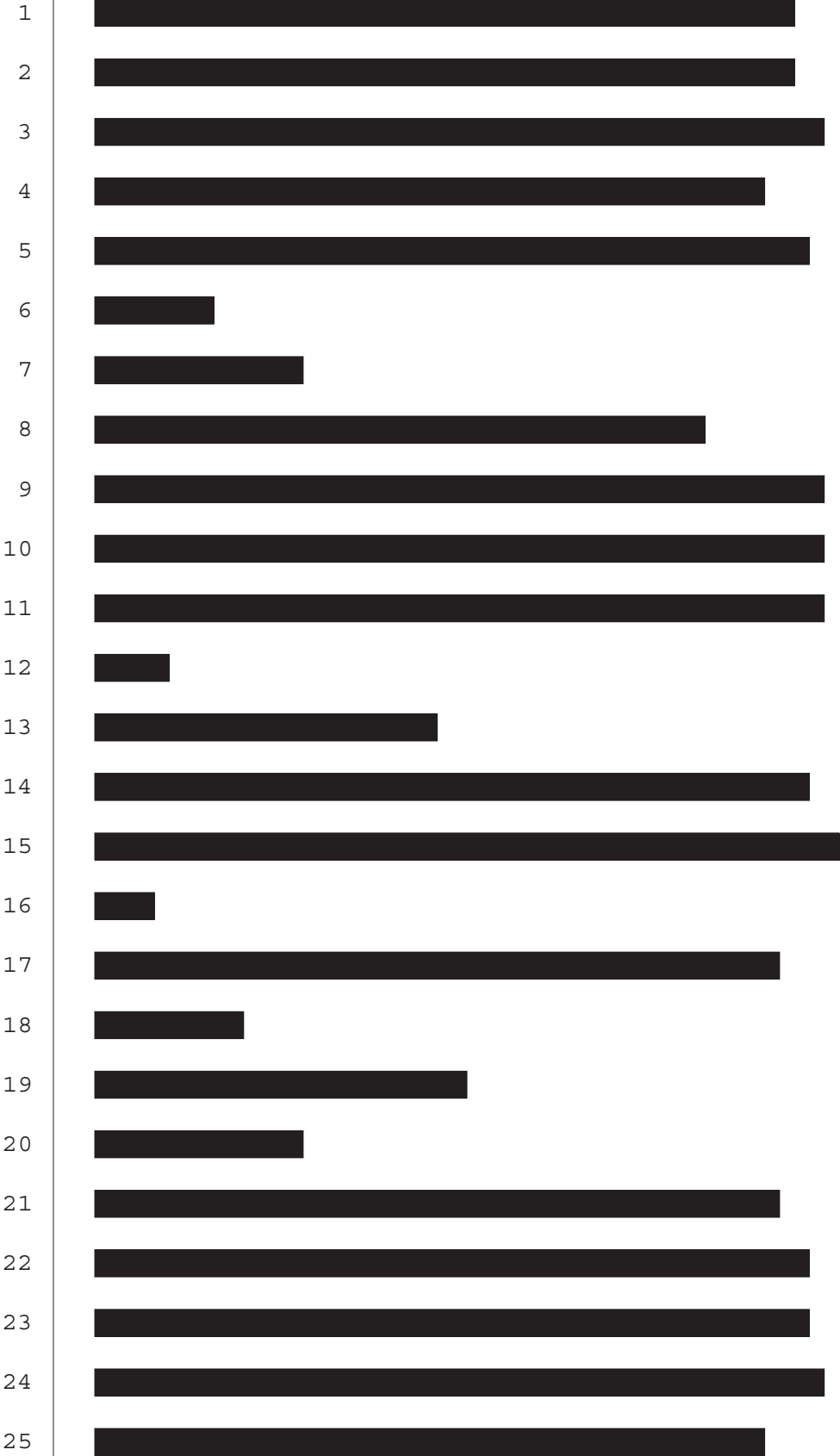














1 threshold showing the total quantity shipped of
2 8514 with the threshold quantity being 6868.

3 A. Yes.

4 Q. You said before that you thought -- and
5 this again appears to have a chain-wide average
6 for the threshold quantity.

7 A. Yes.

8 Q. You said before that you thought using a
9 chain-wide average could lead to false positives?

10 A. For sure, yes.

11 Q. And by the same token, could using a
12 chain-wide average also lead to false negatives?

13 A. I'm not a mathematician, but I believe
14 looking here at store 8 that you're asking on,
15 that's one of our busiest stores in the chain, and
16 I'm not surprised that it would have been over
17 threshold from looking at this number.

18 Q. My question is a little different,
19 however. Not looking just at store number 8 and
20 not looking at just at the information on this
21 spreadsheet, would you agree that while using a
22 chain-wide threshold can lead to false positives
23 for some stores, could it also lead to false
24 negatives or a sense of reassurance for some
25 stores that may actually be using or ordering a

1 lot more of a hydrocodone product than it normally
2 would?

3 A. It's possible.

4 Q. If we go to the next document in this
5 set, 1054, this is the end-of-the-month report for
6 December 2013. If you'll go to the page with the
7 spreadsheet information on it, we see store number
8 8 again; is that right?

9 A. Yes.

10 Q. I think it's about four stores down.
11 Are you with me?

12 A. Yes.

13 Q. And for store number 8 this month, we
14 see a total shipped quantity of 14,663?

15 A. Yes.

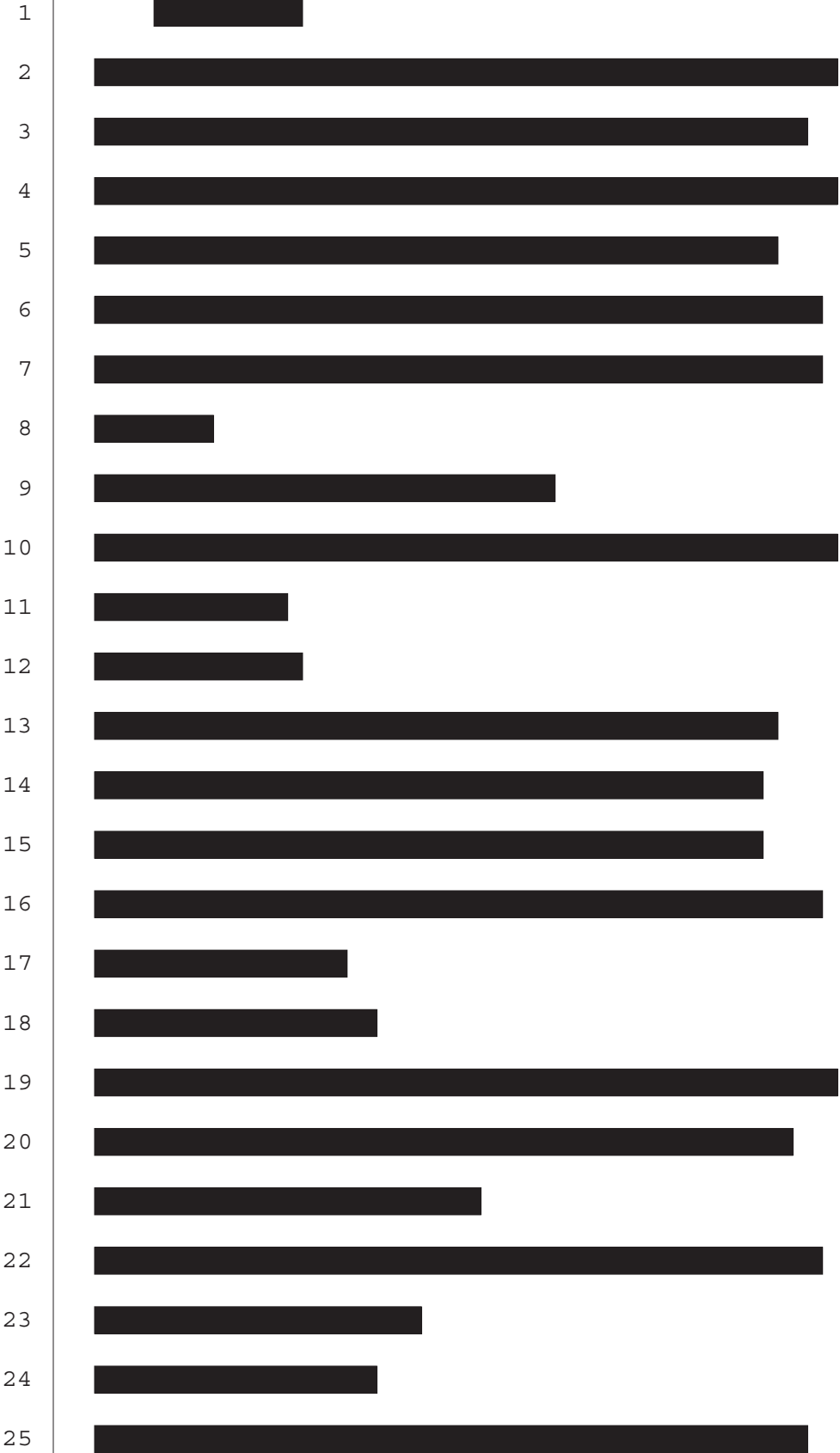
16 Q. And a threshold quantity of 7175?

17 A. Yes.

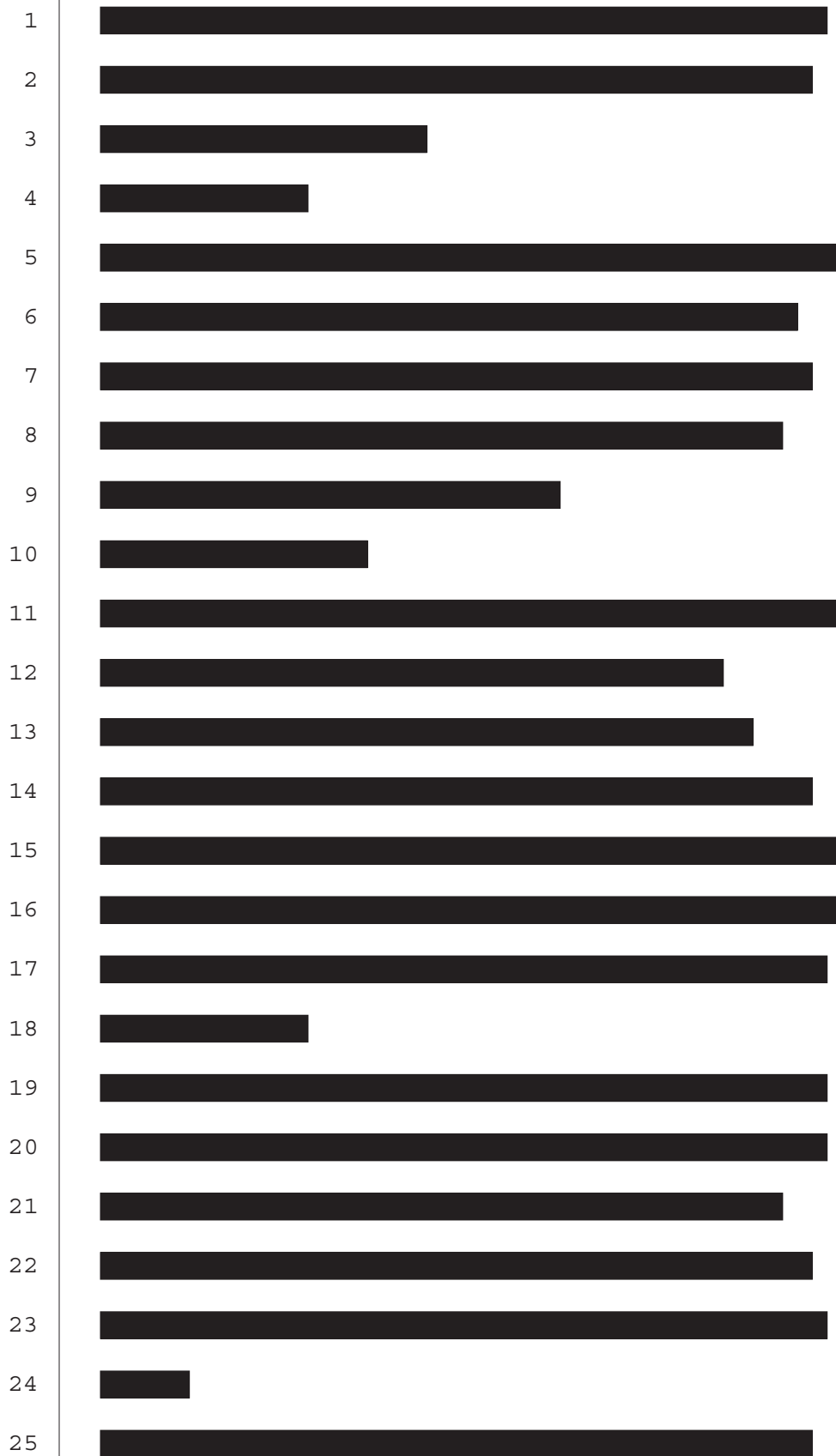
18 Q. And if you do the math, correct me if
19 you think I'm wrong, but that appears to be a
20 little over six times the monthly average?

21 A. Based on this threshold, yes.

22 Q. Would you expect a daily or a report
23 like this to raise questions about store number 8
24 similar to the questions that were raised in
25 January of 2014?

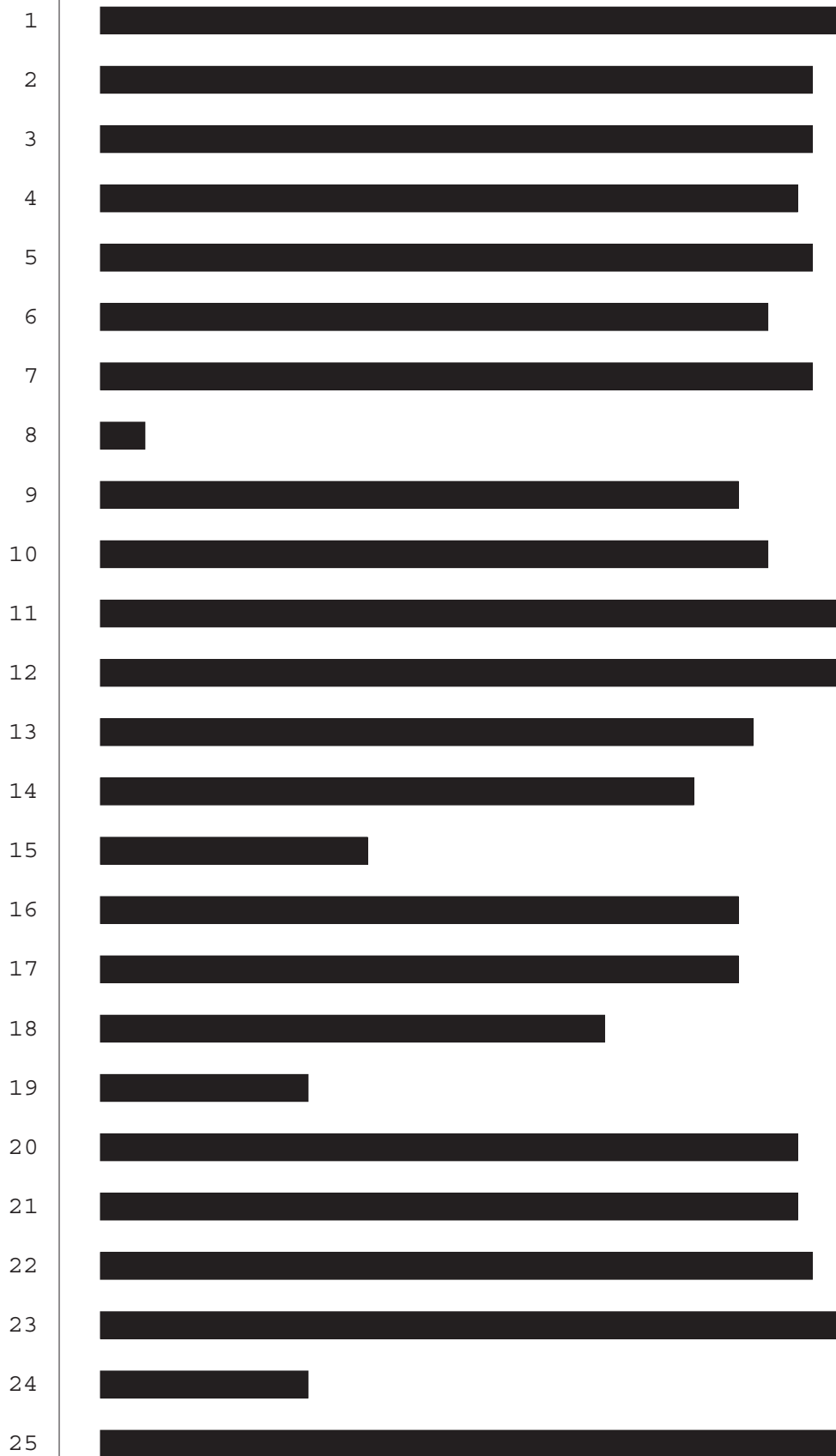






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1 this month of any emails by anyone asking anyone
2 to look into whether store 8 had any abnormal
3 ordering patterns for the hydrocodone products?

4 A. I don't have any specific knowledge of
5 them or not.

6 Q. I have one more spreadsheet I want to
7 ask you about, and it actually jumps forward. It
8 fast forwards now to May of 2014. Let me know
9 when you're with me.

10 A. What number is that?

11 Q. I think May of 2014. Is that what you
12 have?

13 A. Is it 1059 in the corner?

14 Q. Yes, 1059.

15 A. I'm tracking with you.

16 Q. And if you'll go to the second page of
17 the spreadsheet again with me, again, you'll see
18 store number 8 about in the middle of that
19 spreadsheet.

20 And would you agree with me that the amount
21 shipped in this month of 10,879 exceeded the
22 threshold quantity, which was 5598?

23 A. Yes.

24 Q. And is it your understanding that even
25 as of 2016, the threshold quantity was still being

1 applied as an average across the store chains?

2 A. Yes.

3 Q. I think I'm done with that exhibit.

4 When talking about the threshold system that
5 was put in place in 2013, I think I heard you
6 earlier say that it was done to improve the system
7 of monitoring for suspicious orders.

8 A. To add further layers, yes.

9 Q. Looking back, do you think back in 2013
10 putting the threshold system in place the way it
11 was put in place, that it was indeed an
12 improvement over what HBC had at that point in
13 time?

14 A. It was an improvement that there was
15 automated reports, certainly some IT help to it in
16 some regards.

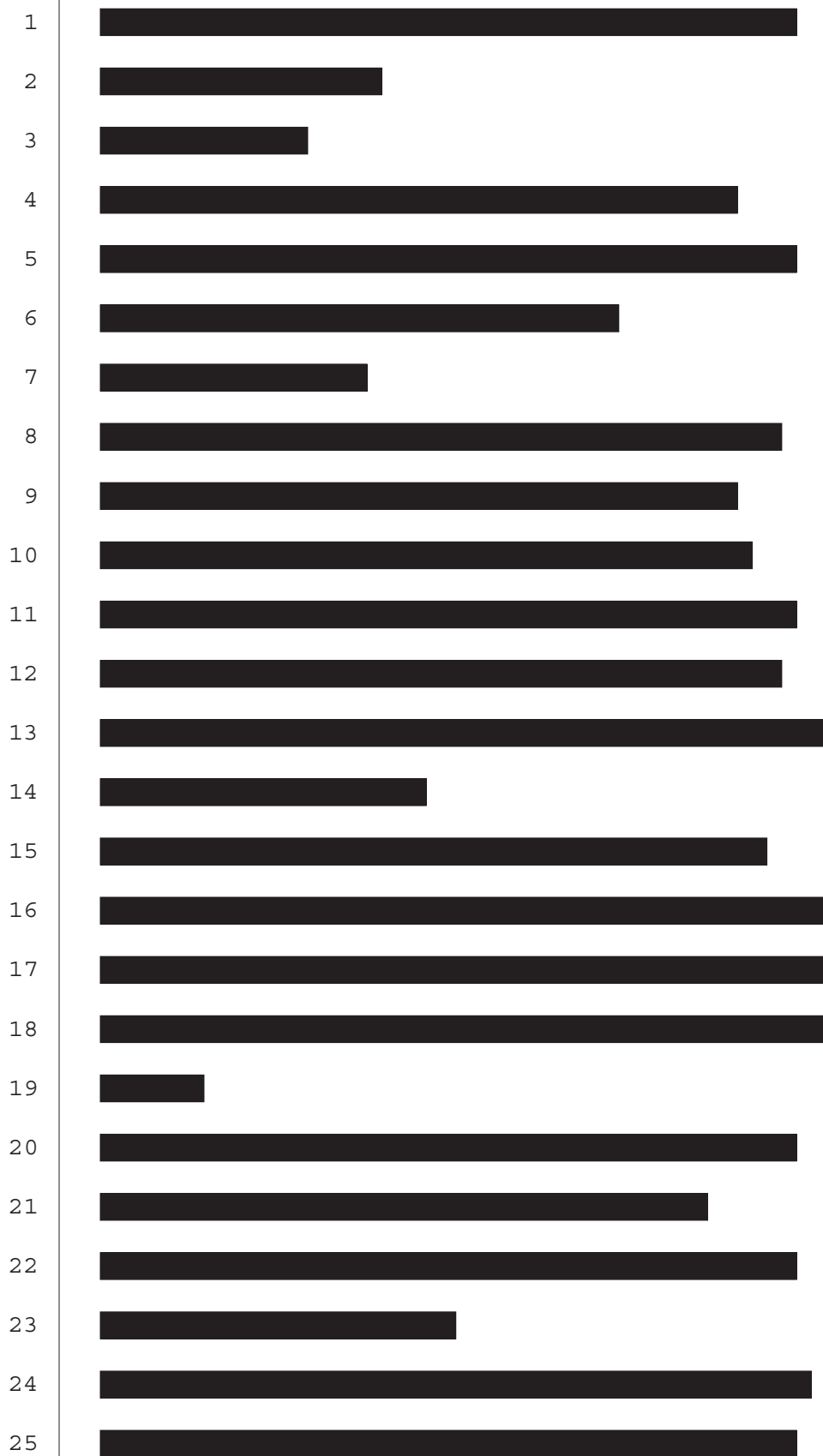
17 Q. Because prior to 2013, there were no
18 automated reports; is that right?

19 A. It was more a manual process, yes.

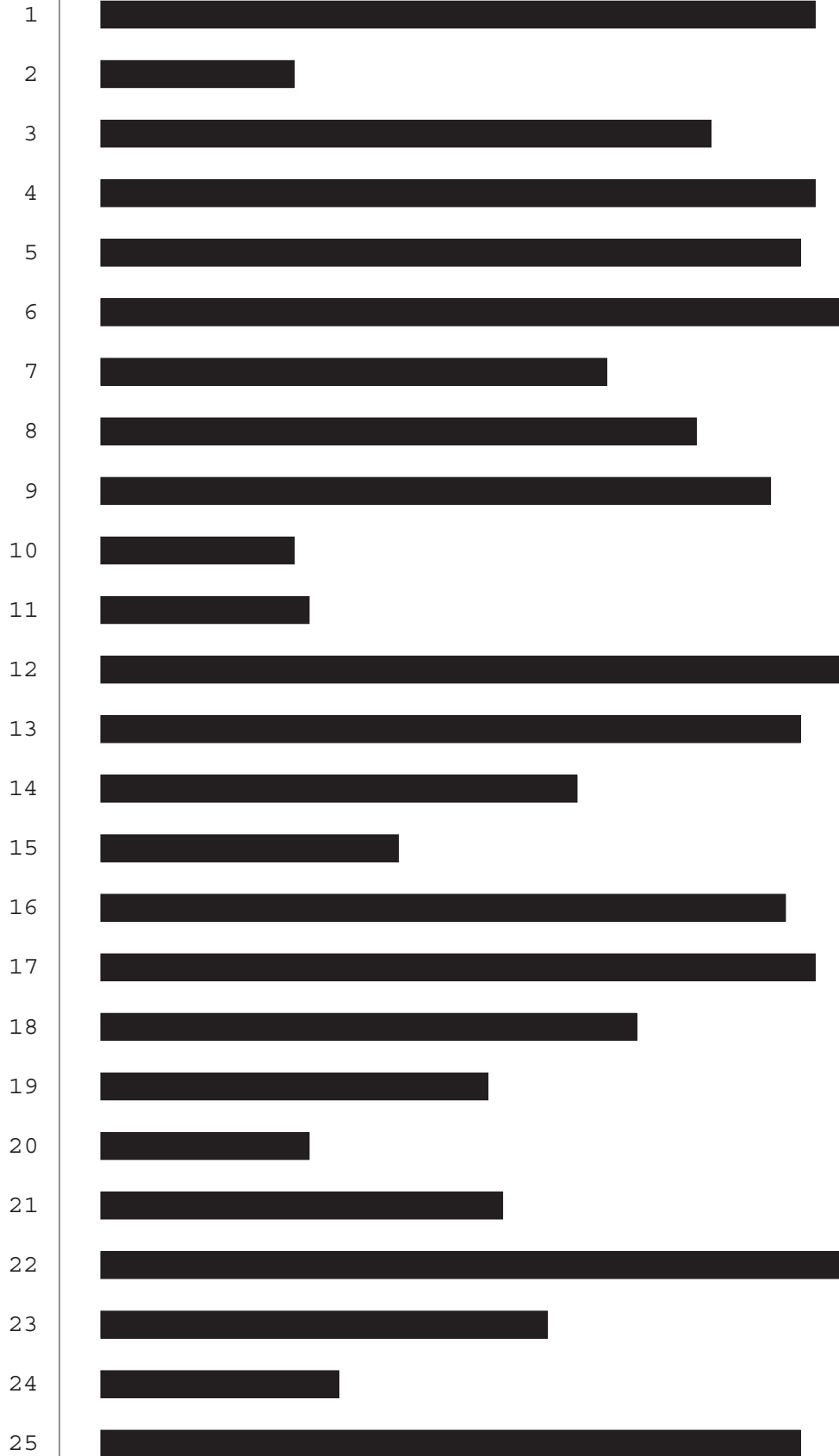
20 Q. Not just more a manual process. There
21 was no automated reporting coming out on a daily
22 basis; is that right?

23 A. As far as I could find, no.

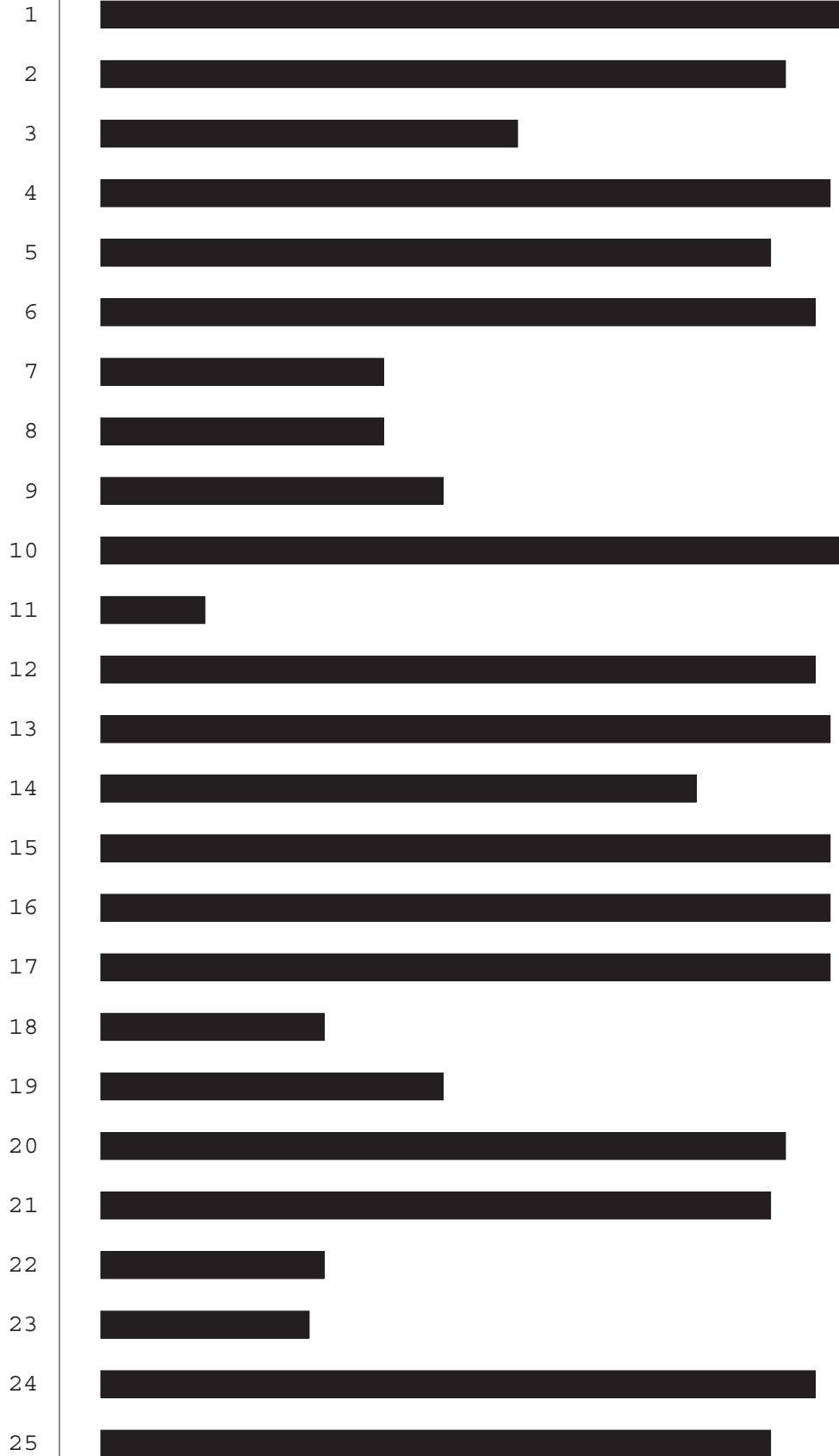
24 Q. You may recall a little earlier today
25 that you were shown a couple of letters by the





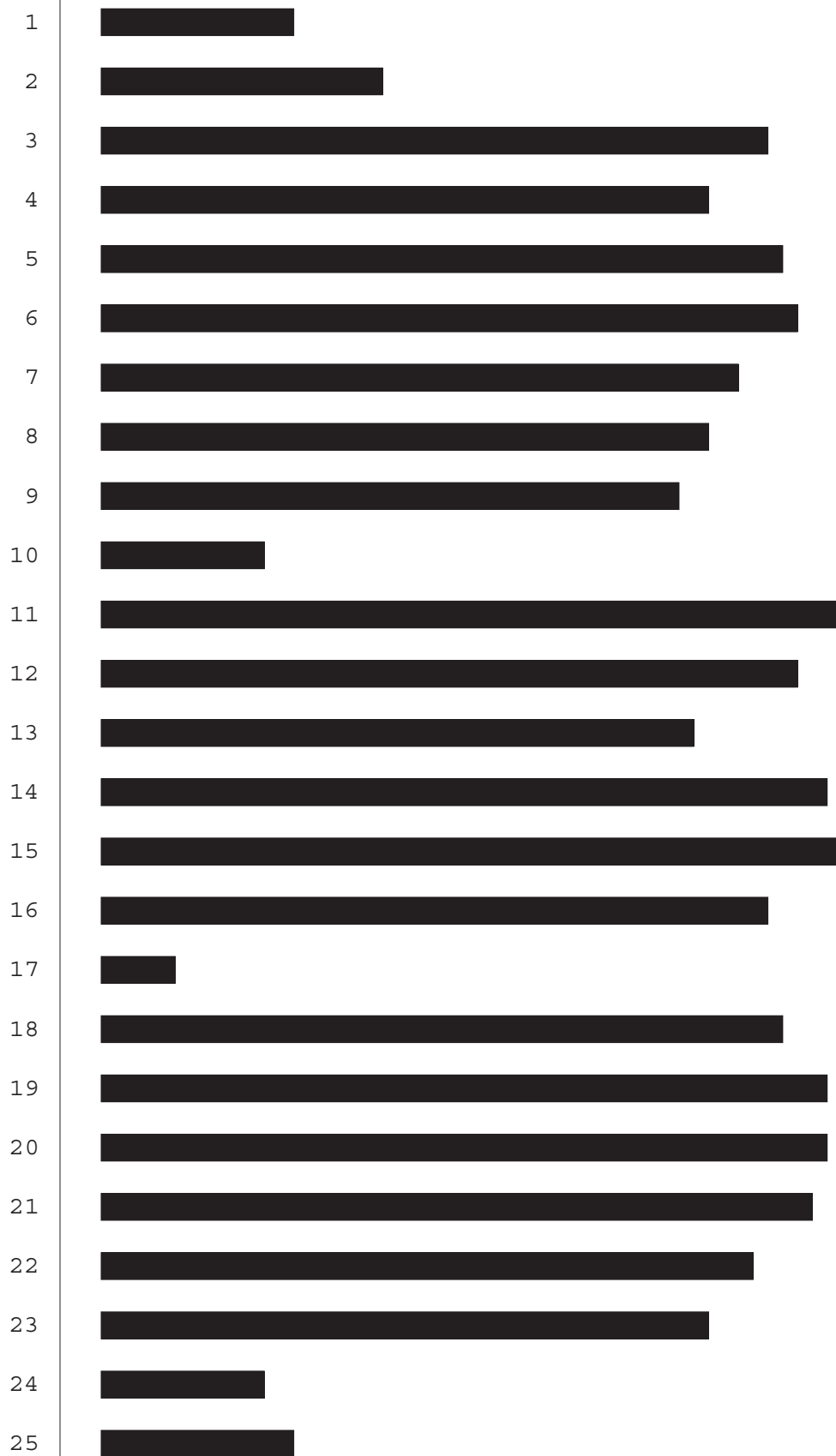


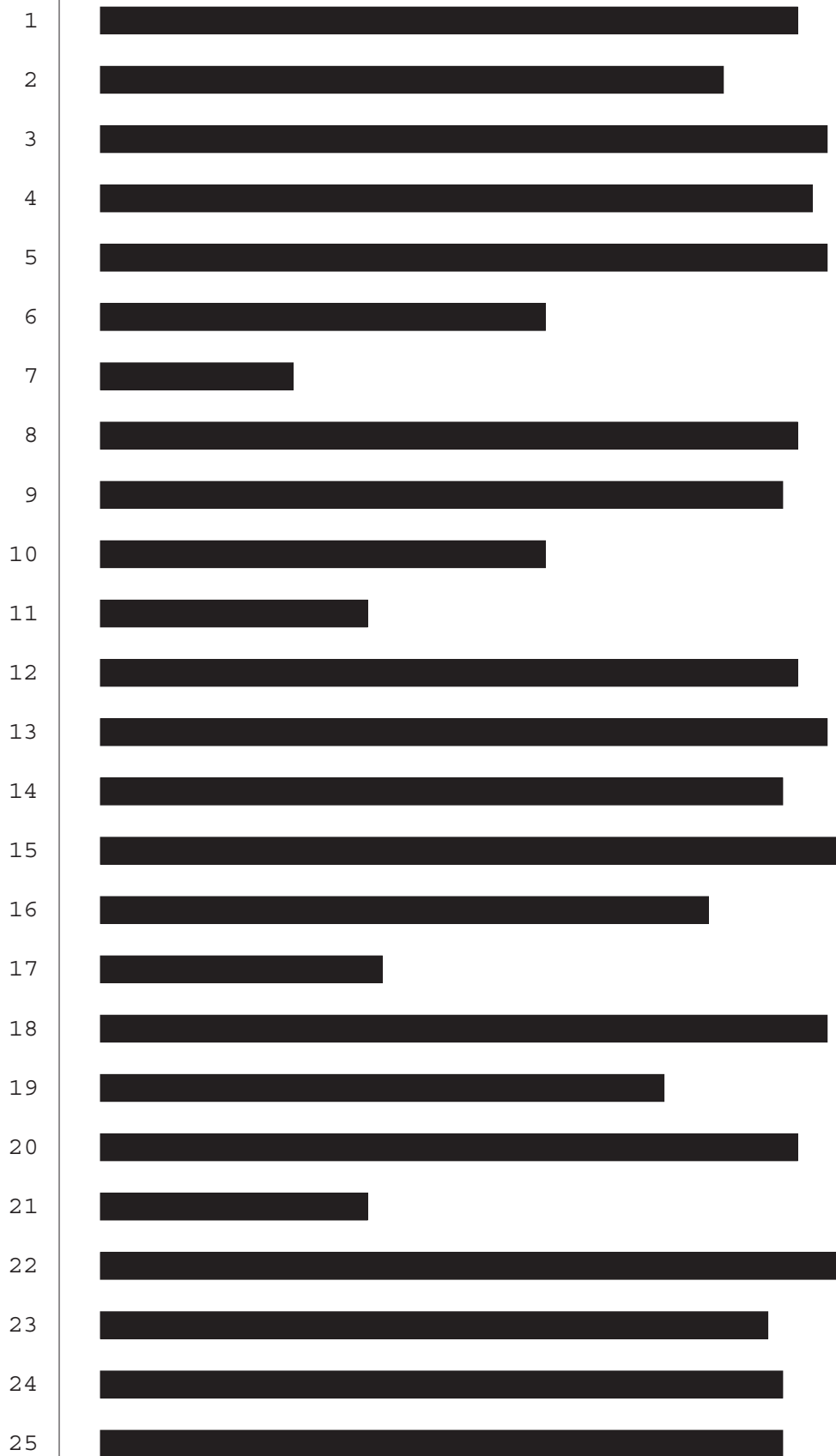












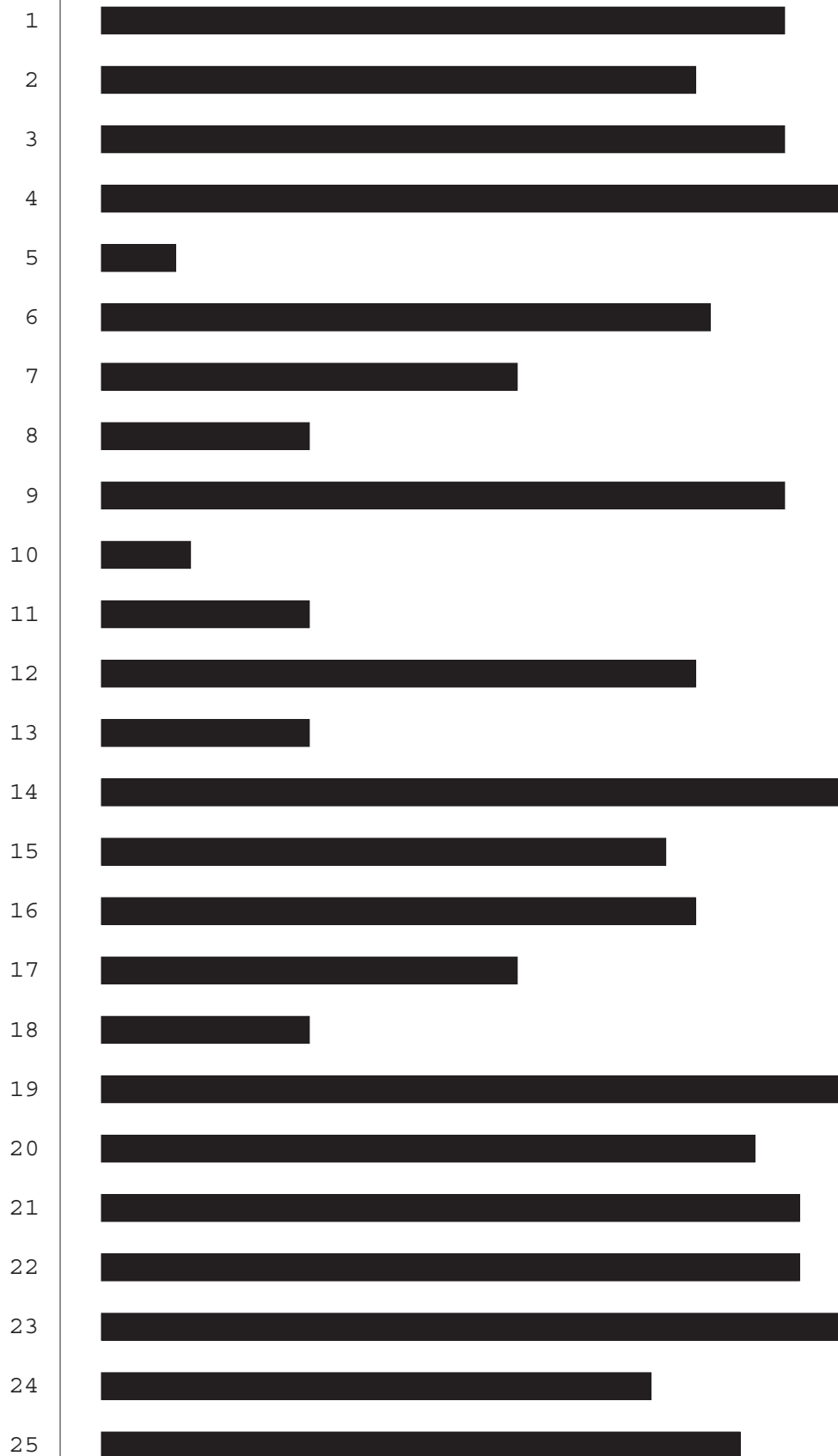


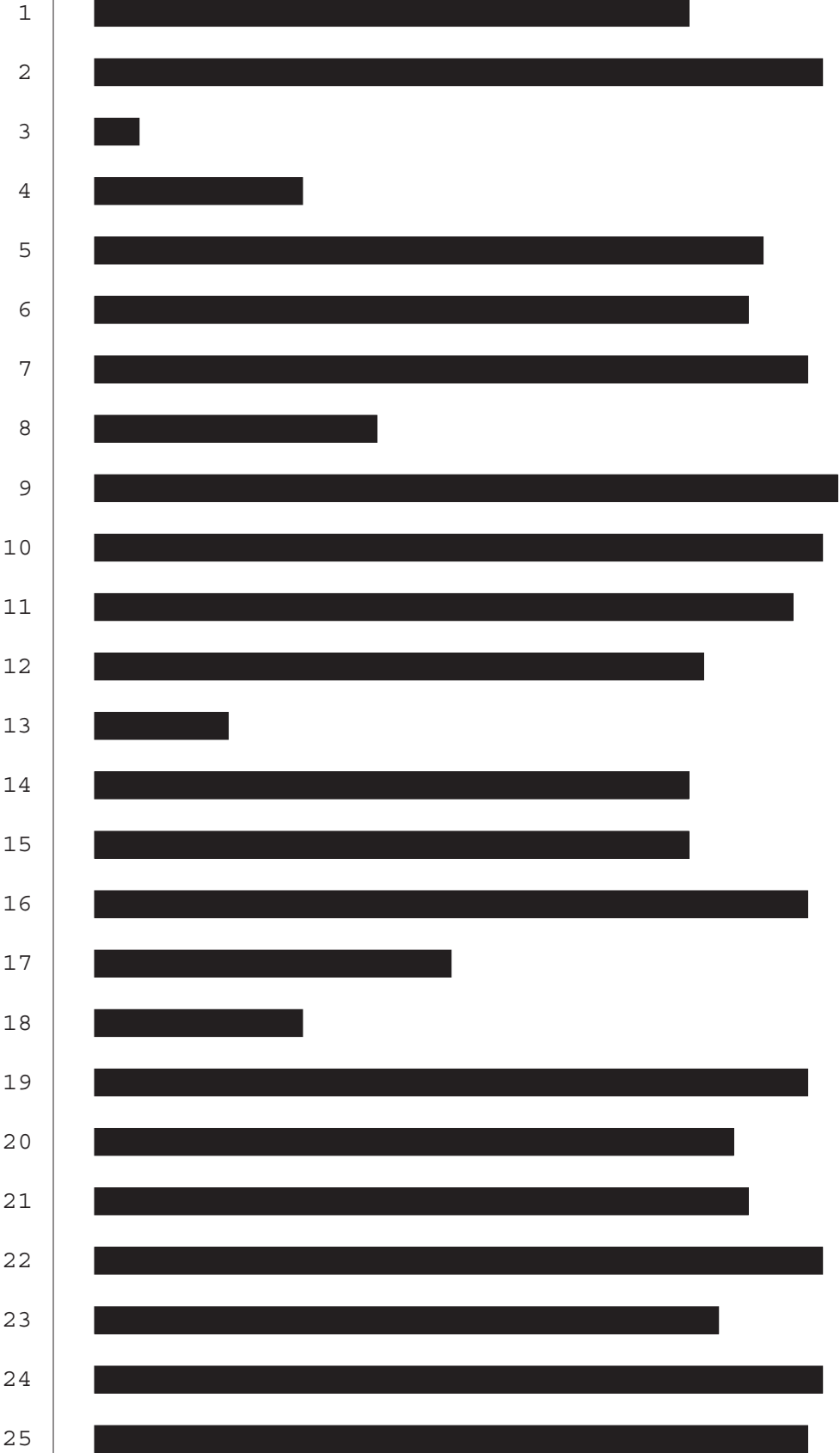






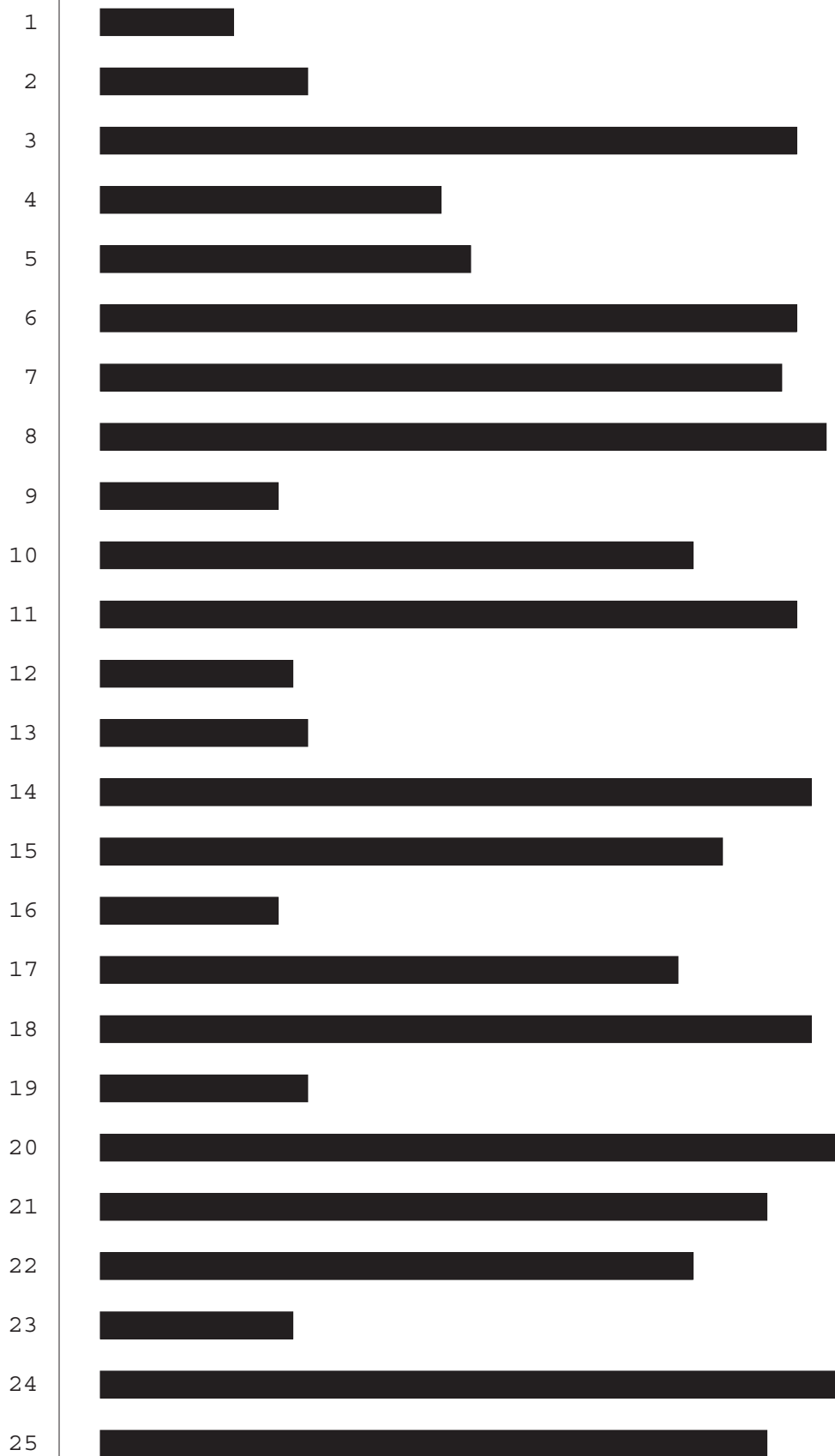
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1 A. Yes.

2 Q. Can you just briefly summarize those for
3 us?

4 MR. GADDY: Objection to form.

5 THE WITNESS: Certainly there was a lot
6 of pop-up pharmacies on the internet that the DEA
7 was cracking down on and certainly there wasn't a
8 valid patient/prescriber relationship, and the DEA
9 had ramped up regulatory efforts against those to
10 curb them or shut them down.

11 BY MR. BARNES:

12 Q. Did HBC or Giant Eagle at any time ever
13 supply an internet pharmacy at any time?

14 MR. GADDY: Objection to form.

15 THE WITNESS: No.

16 BY MR. BARNES:

17 Q. Now, with respect to the physical
18 structure of the HBC warehouse, did you have a
19 locked cage?

20 A. Yes.

21 Q. Was there controlled access to that
22 locked cage?

23 A. Yes.

24 Q. Was that locked cage inspected and
25 approved by the DEA?

1 A. Yes.

2 Q. Was admittance to the locked cage
3 limited to only certain personnel?

4 A. Yes.

5 Q. Was there limited entry for the number
6 of personnel?

7 A. Yes.

8 Q. What was that number, do you recall?

9 A. Three or four individuals only.

10 Q. Were they using any type of digital
11 inventory system with scanners and wrist bands and
12 things of that nature while they were inside the
13 controlled substance locked area?

14 A. Yes.

15 Q. Do you know the name of that system?

16 A. I believe Volcom. I think it's Volcom.

17 Q. Can you spell that, please?

18 A. V-O-L-C-O-M.

19 Q. And is that system a form of a perpetual
20 inventory system?

21 A. Yes.

22 Q. Is that a type of internal control at
23 the warehouse?

24 MR. GADDY: Objection to form.

25 THE WITNESS: Sure, yes.

1 BY MR. BARNES:

2 Q. The controlled substance orders that
3 were picked at the warehouse, the HBC warehouse,
4 were they doublechecked before shipping?

5 A. Yes.

6 Q. Were there physical safeguards to
7 prevent theft and diversion at that warehouse?

8 A. Yes.

9 Q. Even while picking the orders?

10 A. Yes.

11 Q. Can you just describe a few of them?

12 A. So there would be daily audits,
13 backcounts. The system would make sure that all
14 of the inventory would tie up.

15 Q. So if there was any product missing,
16 would it be found fairly promptly?

17 A. Oh, yes.

18 Q. Was there a daily warehouse inventory
19 for controlled substances?

20 A. Yes.

21 Q. Were there security guards and cameras
22 throughout the facility?

23 A. Yes, multiple.

24 Q. Besides the daily inventories, were
25 their yearly inventories and biannual DEA

1 inventories?

2 A. Yes.

3 Q. Was the warehouse overseen by the Giant
4 Eagle audit and accounting department?

5 A. Sure, yes.

6 Q. You were asked a lot of questions about
7 due diligence performed in the 2009 to 2013 time
8 period. In fact, Exhibit 12 you were shown a few
9 minutes ago and you were asked whether you could
10 identify specific investigations for line items on
11 these reports.

12 Do you recall those questions?

13 A. Yes.

14 Q. How many transactions like that are we
15 talking about in any given -- any given month and
16 year?

17 A. Thousands, millions, many items.

18 Q. And you can't remember every one of
19 them?

20 A. No.

21 Q. And you didn't attempt to memorize every
22 one of them in preparation for your deposition?

23 A. No.

24 Q. Have you ever heard of the term CSOS
25 ordering system?

1 A. Yes.

2 Q. Is that something that was used for the
3 warehouse facilities?

4 A. Yes.

5 Q. When did that program start being used?

6 A. I believe 2015.

7 Q. Does that program have the ability to
8 stop an order if it exceeds a threshold?

9 A. Yes.

10 Q. Are you familiar with the Supply Logic
11 software program?

12 A. Yes.

13 Q. Is that another program that Giant Eagle
14 used at these warehouses?

15 A. Yes.

16 Q. And what did that allow Giant Eagle or
17 the warehouses to do?

18 A. It would allow for us to see the ins and
19 outs of inventory and flag anything that had any
20 risk or things to look at out of the ordinary.

21 Q. Is that a form of an internal control?

22 MR. GADDY: Objection to form.

23 THE WITNESS: Yes.

24 BY MR. BARNES:

25 Q. Was that part of the overall security

1 system that HBC considered when it was trying to
2 comply and complying with the security
3 requirement?

4 MR. GADDY: Objection to form.

5 THE WITNESS: Yes. More further, they
6 would look at patterns. They would look at pretty
7 holistically the patterns and any deviations.

8 BY MR. BARNES:

9 Q. You're a pharmacist; is that correct?

10 A. Yes.

11 Q. What kind of degrees in pharmacy do you
12 have?

13 A. Bachelor of science in pharmacy.

14 Q. And were you a practicing pharmacist in
15 a store for a period of time?

16 A. Yes.

17 Q. Was that for a different chain,
18 Albertsons?

19 A. Yes.

20 Q. Are you familiar with dispensing
21 practices and things of that nature?

22 A. Yes.

23 Q. In your direct testimony upon
24 questioning by Mr. Gaddy, you referenced this
25 integrated control system, and you referenced

1 three parts to it, at the warehouse, at corporate
2 and at the stores. Do you recall that testimony?

3 A. Yes.

4 Q. At the stores are there internal
5 controls over controlled substances?

6 A. Sure, yes.

7 Q. Are there physical controls over
8 controlled substances?

9 A. Yes.

10 Q. Does that include vaults -- I'm sorry --
11 not vaults, but safes and things of that nature?

12 A. Locked cabinets and safes, yes.

13 Q. And who's allowed access to those locked
14 cabinets and safes?

15 A. Only the pharmacist.

16 Q. Does Giant Eagle have a mechanism to
17 train pharmacists to keep tight control over
18 controlled substances?

19 A. Yes.

20 Q. And is that monitored by loss prevention
21 and internal audit?

22 A. Yes.

23 Q. And are pharmacists and pharmacy techs
24 trained and supervised?

25 MR. GADDY: Objection to form.

1 THE WITNESS: Yes.

2 BY MR. BARNES:

3 Q. Does Giant Eagle at the store level
4 impose policies and procedures on the pharmacists
5 and the pharmacy techs with respect to dispensing
6 prescriptions?

7 A. Yes.

8 Q. Are you familiar with the DEA pharmacist
9 manual?

10 A. Of course, yes.

11 Q. Is that something that's kept at every
12 Giant Eagle pharmacy?

13 A. Yes.

14 Q. And are the pharmacists required to
15 review it and sign off on it?

16 A. Yes.

17 Q. Does Giant Eagle have controlled
18 substance dispensing guidelines?

19 A. Yes.

20 Q. Do those guidelines include red flags,
21 things to watch for in terms of whether a
22 prescription is legitimate or not?

23 A. Yes.

24 Q. And are they required to review those
25 and sign off that they've been trained on it and

1 understand them?

2 A. Yes.

3 Q. And are all of Giant Eagle's pharmacists
4 licensed pharmacists with experience?

5 MR. GADDY: Objection to form.

6 THE WITNESS: Yes.

7 BY MR. BARNES:

8 Q. Are there other manuals containing
9 policies at the store level related to controlled
10 substance other than the DEA pharmacist manual and
11 the controlled substance dispensing guidelines?

12 A. Yes.

13 Q. And do those policies include controls
14 over all controlled substances?

15 A. Yes.

16 Q. Do the stores interface with any
17 statewide systems to make sure that incoming
18 prescriptions are legitimate?

19 A. Yes.

20 Q. In the state of Ohio, is there a name
21 for that system?

22 A. Sure. It's the prescription drug
23 monitoring program, the OARRS program.

24 Q. And is that something that the
25 pharmacists are trained to consult?

1 A. Yes.

2 Q. Will that provide some information about
3 things like doctor shopping and people coming in
4 from out of state, things of that nature?

5 MR. GADDY: Objection to form.

6 THE WITNESS: Yes.

7 BY MR. BARNES:

8 Q. And do Giant Eagle pharmacists use that
9 system?

10 A. Regularly, yes.

11 Q. Is the activity at the store level
12 reported to the DEA in terms of prescriptions
13 filled?

14 A. Yes, yes.

15 Q. Is the DEA -- does the DEA from time to
16 time visit the stores?

17 A. Sure, yes.

18 Q. Do they perform surprise audits and
19 things of that nature?

20 MR. GADDY: Objection to form.

21 THE WITNESS: Audits or if they're
22 coming in for investigations or other things that
23 they're working on, sure, yes.

24 BY MR. BARNES:

25 Q. Do of the boards of pharmacy of the

1 states also interface with the stores?

2 A. Yes.

3 Q. Does the Ohio Board of Pharmacy
4 interface with the Giant Eagle stores in these two
5 counties at issue?

6 MR. GADDY: Objection to form.

7 THE WITNESS: Yes.

8 BY MR. BARNES:

9 Q. Do they perform surprise audits and
10 inspections?

11 MR. GADDY: Objection to form.

12 THE WITNESS: Absolutely, yes.

13 BY MR. BARNES:

14 Q. To your knowledge, has there ever been a
15 problem raised by the DEA or the Ohio Board of
16 Pharmacy related to any of the Giant Eagle
17 pharmacies in these two jurisdictions?

18 MR. GADDY: Objection to form.

19 THE WITNESS: Not to my knowledge, no.

20 BY MR. BARNES:

21 Q. Are there controls over incoming orders
22 into the stores, including orders from the other
23 distributors? McKesson, I guess, was the main
24 distributor of controlled substance IIs for this
25 time period; is that correct?

1 A. Correct.

2 Q. And when those came into the stores,
3 were there special procedures over those incoming
4 orders?

5 A. Yes.

6 Q. Were they treated differently than other
7 incoming orders?

8 A. Absolutely, yes.

9 Q. Give us some samples of that.

10 A. So those orders would need to be checked
11 in by a pharmacist, signed off on the pharmacist.
12 Right away when the couriers would drop off, it's
13 the expectation that the pharmacist would -- it
14 would be segregated. They come in different totes
15 and they're handled differently. And any
16 discrepancies are immediately noted or called in.

17 Q. Is the pharmacist required to
18 immediately input -- update the store's controlled
19 substance inventory for incoming orders?

20 A. Their onions?

21 Q. Yes.

22 A. Yes.

23 Q. And when controlled substance
24 prescriptions are filled, is the inventory, the
25 store inventory immediately credited for the

1 outgoing prescription?

2 A. Yes.

3 Q. At the end of the day, is there a check
4 of the remaining balance of controlled substances
5 at the store?

6 A. Yes, and especially even more so on
7 CIIIs. They're backcounted on every fill.

8 Q. What does it mean to backcount every
9 fill?

10 A. The system will prompt for how many
11 pills are left in the bottle. So if you had a
12 hundred pills to start and you filled 50, you
13 would expect to have 50 left in that bottle. So
14 the backcount would be to ensure that you had 50
15 left in that bottle and inputting that that you do
16 have, in fact, 50.

17 Q. Are you familiar with the term monthly
18 narc audit?

19 A. Yes.

20 Q. What is that?

21 A. The requirement that all of our
22 pharmacies do a full inventory of CII narcotics in
23 our stores and some other products as well, not
24 just can CIIIs, but some CIIIs.

25 Q. So you have the daily perpetual

1 inventory and the monthly narc audits?

2 A. Yes.

3 Q. You also have the annual audits or
4 inventories of controlled substances at every
5 store?

6 A. The DEA requires an biannual inventory.
7 We do an annual inventory on top, yes. We do a
8 yearly inventory instead of biannual.

9 Q. Can you tell us what a PDL is?

10 A. PDL is a pharmacy district leader.

11 Q. And what do they do?

12 A. They supervise the stores. They're
13 basically a district manager that oversees the
14 stores for all aspects of ensuring Pharmacy
15 Practice Act, DEA, company policy. They're the
16 oversight for the stores, direct oversight for the
17 stores.

18 Q. Do they regularly visit the stores?

19 A. Yes.

20 Q. Do they conduct audits or inquiries
21 concerning their procedures and things of that
22 nature?

23 A. They do audits. We also have an
24 internal audit that quarterly visits the stores
25 for a myriad of things, but yes.

1 Q. Is there any supervision of training of
2 pharmacists?

3 A. Yes.

4 Q. Is that something a PDL does?

5 A. A PDL would definitely make sure any
6 training that needs to be done or computer-based
7 training is completed, and if there's any
8 remediation that's needed, that's their job to
9 make sure.

10 Q. Do the stores work with local law
11 enforcement, police, board of pharmacy inspectors,
12 DEA agents?

13 A. Oh, yes, all the time.

14 MR. GADDY: Objection to form.

15 BY MR. BARNES:

16 Q. Is that cooperative working
17 relationship?

18 MR. GADDY: Objection to form.

19 THE WITNESS: Very much so, yes.

20 BY MR. BARNES:

21 Q. In working with local law enforcement
22 and DEA, have you been able to uncover people
23 attempting to pass bad scripts, things of that
24 nature?

25 A. Yes.

1 Q. Is there a pharmacy investigator?

2 A. Yes.

3 Q. Who is that?

4 A. Rick Shaheen.

5 Q. If how much experience does he have?

6 A. He has a lot of experience. He has a
7 background in law enforcement, attorneys general's
8 office, a very -- has a lot of contacts with DEA,
9 boards of pharmacy. So he's been -- he's been in
10 the business a long time.

11 Q. Does he spend a lot of time in the
12 stores?

13 MR. GADDY: Objection to form.

14 THE WITNESS: Yes.

15 BY MR. BARNES:

16 Q. Does he also work individually with
17 local law enforcement and DEA?

18 A. Yes.

19 Q. Are you familiar with the term or the
20 acronym BOLO, B-O-L-O?

21 A. Yes.

22 Q. What is it?

23 A. Be on the lookout for. So he will send
24 out bulletins to the pharmacists when either law
25 enforcement will tell him that there's bad scripts

1 on the street or a prescription pad, for example,
2 if it's stolen or something, either if we have
3 information -- so Rick is involved with -- Rick
4 and Andrew, who work for Rick, are involved with
5 all of those activities and alert our stores as
6 soon as they know something and we disseminate
7 very quickly to all our stores.

8 Q. And is that the type of information
9 that's also in the OARRS database, or is that
10 different?

11 MR. GADDY: Objection to form.

12 THE WITNESS: Different.

13 BY MR. BARNES:

14 Q. Are there daily counts of certain drugs?

15 A. Yes.

16 Q. Does that include HCP, hydrocodone, or
17 HCP products?

18 A. Yes.

19 Q. Is there an electronic prescription
20 system with perpetual logs at the stores?

21 A. Yes.

22 Q. Is that a form of internal control?

23 A. Yes.

24 Q. Is there diversion training for pharmacy
25 employees on a yearly basis?

1 MR. GADDY: Objection to form.

2 THE WITNESS: Yes.

3 BY MR. BARNES:

4 Q. Now, you were asked a lot of questions
5 about so-called suspicious orders. And I didn't
6 hear a lot of questioning about diversion.

7 Do you understand the term diversion?

8 MR. GADDY: Objection to the question,
9 form of the question.

10 THE WITNESS: Yes.

11 BY MR. BARNES:

12 Q. What does the term diversion mean to
13 you?

14 A. Diversion, theft, loss, things being
15 routed to folks that shouldn't have access to the
16 drugs or prescriptions.

17 Q. If an order is suspicious, does that
18 mean it was diverted?

19 MR. GADDY: Objection to form.

20 THE WITNESS: No, not necessarily, no.

21 BY MR. BARNES:

22 Q. In fact, what has HBC's and Giant
23 Eagle's experience been with respect to so-called
24 suspicious orders or flagged orders? Have they
25 resulted in uncovering diversion?

1 MR. GADDY: Objection to form.

2 THE WITNESS: No.

3 BY MR. BARNES:

4 Q. What happens to -- you were asked
5 questions on Exhibit 15 of these [REDACTED] dosage
6 units in Cuyahoga County. What happened to those
7 [REDACTED] units? Where did they go?

8 MR. GADDY: Objection to form.

9 THE WITNESS: Assuming those were the [REDACTED]
10 [REDACTED] units that we dispensed out of HBC, they
11 were dispensed to patients that were pursuant --
12 on a valid prescription.

13 BY MR. BARNES:

14 Q. And how about the dosage units that went
15 out to Summit County presuming that these numbers
16 are correct?

17 MR. GADDY: Same objection.

18 THE WITNESS: The same. Every single
19 one of them would have been dispensed pursuant to
20 a prescription by a licensed practitioner for
21 those patients.

22 BY MR. BARNES:

23 Q. In your direct questioning today, were
24 you shown at any time any evidence, any document,
25 any piece of paper by plaintiffs' counsel

1 suggesting that any single one of these
2 prescriptions was anything other than a legitimate
3 prescription issued by a doctor who had a
4 legitimate license to issue it?

5 MR. GADDY: Objection to form.

6 THE WITNESS: No.

7 BY MR. BARNES:

8 Q. Were you shown any evidence at any time
9 that any of these prescriptions caused anybody any
10 harm at any time in any jurisdiction?

11 MR. GADDY: Objection to form.

12 THE WITNESS: No.

13 BY MR. BARNES:

14 Q. Did the DEA at any time inform HBC or
15 Giant Eagle that it was required to keep records
16 of every call, every conversation that was made
17 with respect to following up on orders of
18 interest?

19 MR. GADDY: Objection to form.

20 THE WITNESS: No.

21 BY MR. BARNES:

22 Q. Did HBC and Giant Eagle keep those
23 records and emails in other types of files?

24 A. Yes.

25 Q. Is Giant Eagle's integrated system

1 designed to maintain the integrity of the closed
2 system of distribution from incoming at the
3 warehouse to outgoing at the stores?

4 A. Yes.

5 MR. GADDY: Objection to form.

6 BY MR. BARNES:

7 Q. The system that was designed by Giant
8 Eagle, did you expect it to ever produce a
9 suspicious order?

10 MR. GADDY: Objection to form.

11 THE WITNESS: No.

12 BY MR. BARNES:

13 Q. Before you had the threshold-based
14 system, you've already testified, I think, there
15 was one suspicious order?

16 A. Yes.

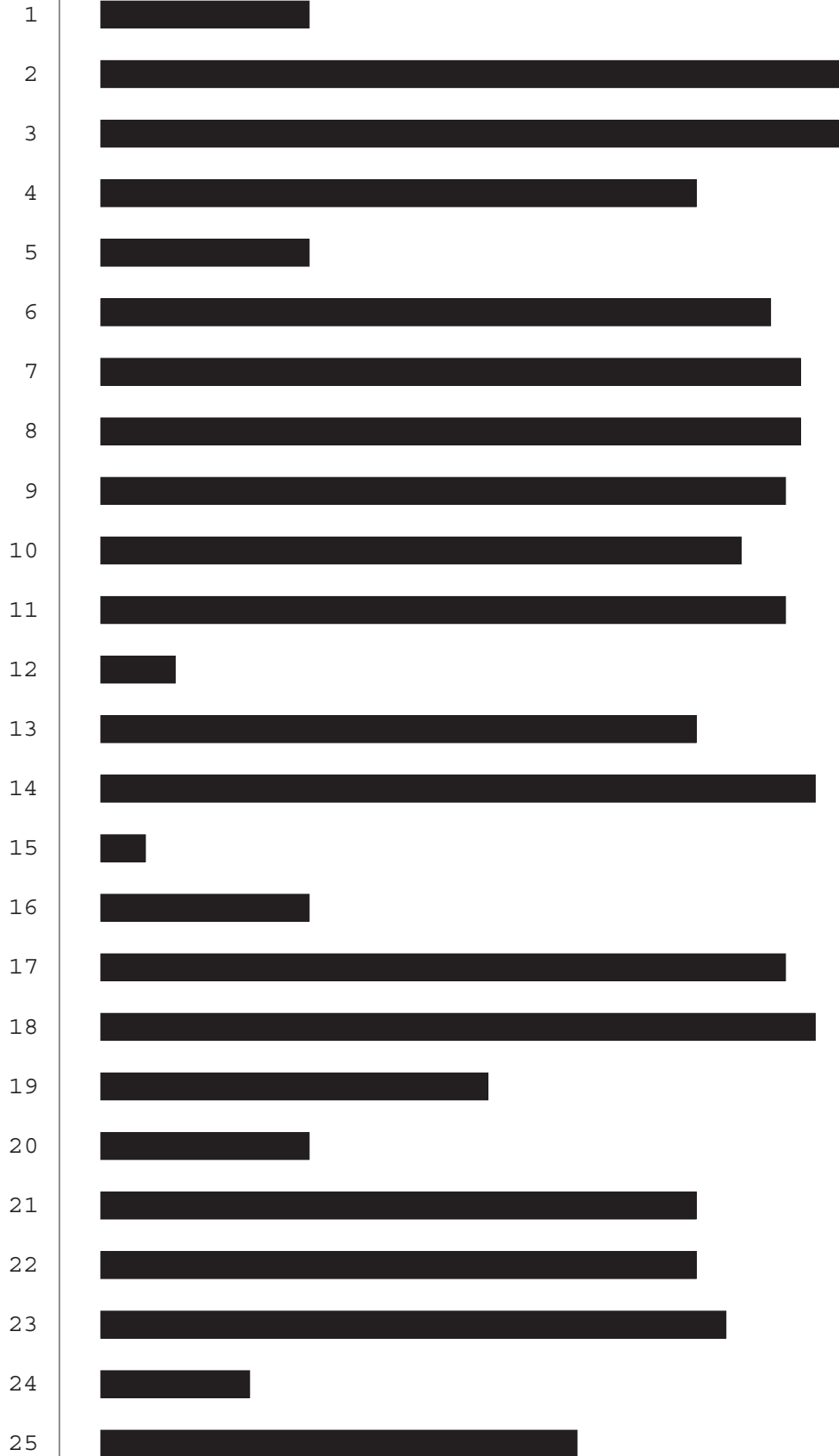
17 Q. And after you had the threshold-based
18 system, you had one suspicious order?

19 A. One more, yes.

20 Q. What does that tell you?

21 MR. GADDY: Objection to form.

22 THE WITNESS: That we had adequate
23 controls from the beginning. Adding more layers
24 of controls didn't materially change the outcome
25 of the system we had in place.



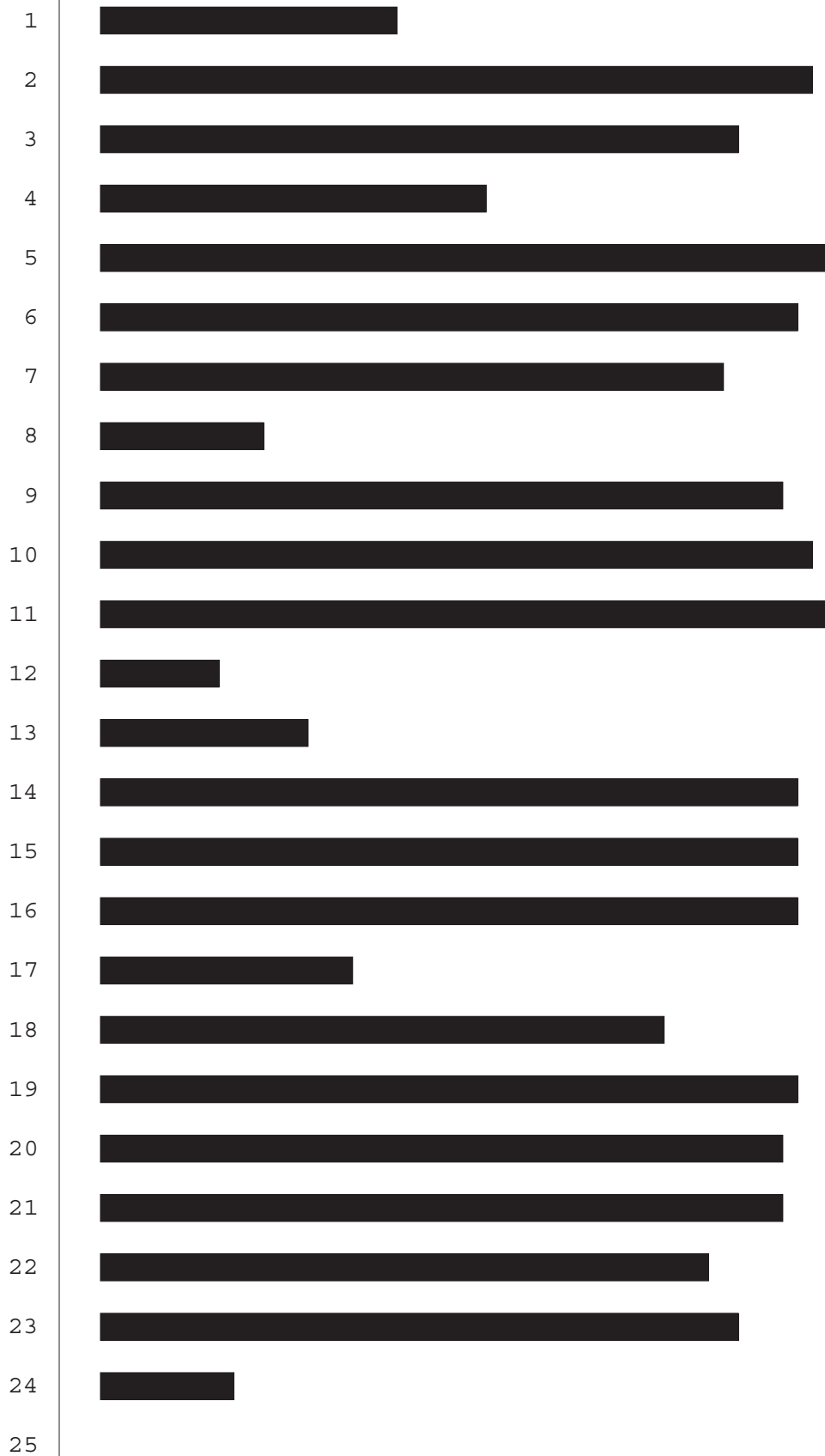




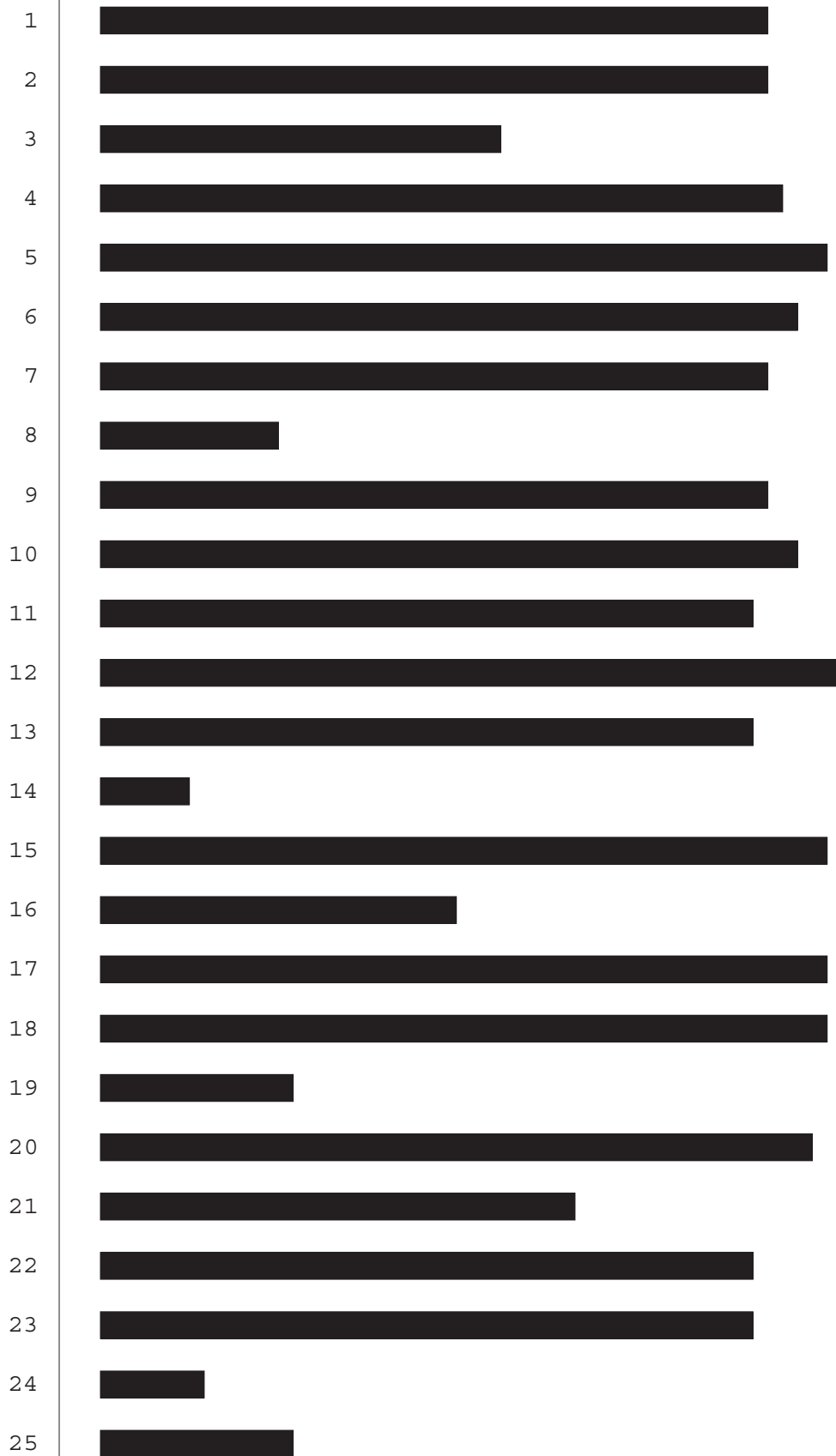
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1 Q. You mentioned the pharmacy investigator,
2 Rick Shaheen; correct?

3 A. Yes.

4 Q. Does Mr. Shaheen have any training or
5 education in detecting or identifying suspicious
6 orders of controlled substances that would come
7 from pharmacies?

8 A. Having met Mr. Shaheen and spending time
9 with Mr. Shaheen and looking at his very diverse
10 background, I feel he's absolutely qualified to do
11 investigations to support our operation, yes.

12 Q. I'm not questioning his qualifications
13 as a law enforcement officer or as a pharmacy
14 investigator. What I'm asking is a little bit
15 different.

16 I'm asking whether or not you're aware of him
17 having any training or experience or education as
18 it relates to HBC's duty under the Controlled
19 Substance Act to design and operate a system to
20 detect suspicious orders.

21 A. That I do not know, no.

22 Q. We agree that HBC was under no
23 obligation to utilize a threshold system in 2013;
24 correct?

25 A. Correct.

1 Q. But HBC chose to do so; correct?

2 A. As one level of control, yes.

3 Q. And this was touched on a little bit
4 earlier, but I think with me you indicated that
5 the original methodology was flawed and was a
6 system that could produce false positives;
7 correct?

8 A. Certainly. When you do an average, yes,
9 it's possible, yes.

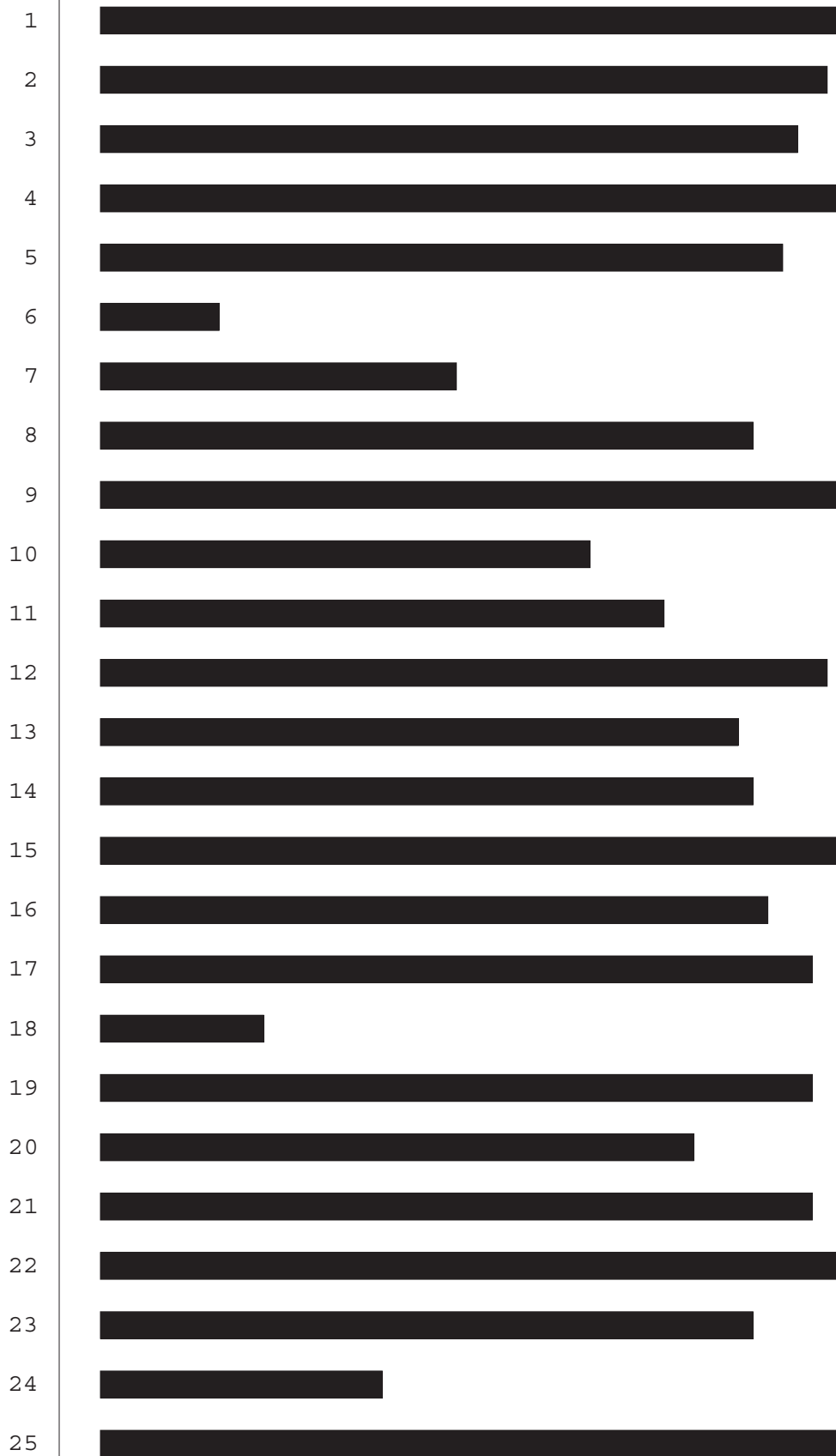
10 Q. Then you also were asked after lunch
11 whether or not that same system could produce
12 false negatives, and you agreed that was also a
13 possibility; right?

14 A. Possible, yes.

15 Q. I might get these numbers wrong, but I
16 believe the example you gave to me when I was
17 asking questions this morning was that you had
18 some pharmacies that wrote 6000 scripts per month,
19 and you had some pharmacies that wrote 300 scripts
20 per month.

21 A. If you mean dispense, yes, but that's
22 not just controlled substances. That's total
23 prescriptions. But yes.

24 Q. Sure. So just like I think the example
25 you pointed out or maybe one of your higher volume



1	[REDACTED]
2	[REDACTED]
3	[REDACTED]
4	[REDACTED]
5	[REDACTED]
6	[REDACTED]
7	[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

MR. BARNES: I have nothing further.

Thank you.

THE VIDEOGRAPHER: 5:20 p.m. We're off
the video record. This concludes the video
deposition.

(Whereupon, at 5:20 p.m., taking of the
instant deposition ceased.)

1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF ALLEGHENY) SS:

3 C E R T I F I C A T E

4 I, Ann Medis, Registered Professional
5 Reporter, Certified Livenote Reporter and Notary
6 Public within and for the Commonwealth of
7 Pennsylvania, do hereby certify:

8 That JAMES TSIPAKIS, the witness whose
9 deposition is hereinbefore set forth, was duly
10 sworn by me and that such deposition is a true
11 record of the testimony given by such witness.

12 I further certify the inspection,
13 reading and signing of said deposition were not
14 waived by counsel for the respective parties and
15 by the witness.

16 I further certify that I am not related
17 to any of the parties to this action by blood or
18 marriage and that I am in no way interested in the
19 outcome of this matter.

20 IN WITNESS WHEREOF, I have hereunto set
21 my hand this 18th day of December, 2018.

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23 _____
Notary Public
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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby
certify that I have read the foregoing pages, and that
the same is a correct transcription of the answers
given by me to the questions therein propounded, except
for the corrections or changes in form or substance, if
any, noted in the attached Errata Sheet.

[WITNESS NAME]

DATE

Subscribed and sworn to

before me on this _____ day

of _____, 20____, by _____

_____,

proved to me on the basis of satisfactory
evidence to be the person(s) who appeared before me.

Signature _____